

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

FRESH TO DEATH, LLC,

Plaintiff,

v.

SHYANG HO FOOTWEAR CO., LTD.,

Defendant.

CIVIL ACTION No. 08-5147

SHYANG HO FOOTWEAR CO., LTD.,

Counterclaim Plaintiff,

v.

FRESH TO DEATH, LLC,

Counterclaim Defendant,

and

ENDURANCE, LLC,

Additional Counterclaim  
Defendant.

**ANSWER, COUNTERCLAIM AND JURY DEMAND**

Defendant Shyang Ho Footwear Co., Ltd. answers as follows in response to the numbered allegations set forth in Plaintiff Fresh to Death, LLC's Complaint:

**ANSWER**

1. Defendant admits the allegations of Paragraph 1 as regards Plaintiff's current address, but lacks sufficient information to either admit or deny as to "all relevant times."

2. Defendant admits that Plaintiff is in the business of distributing footwear (among other things), but is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 2 and therefore denies the same.

3. Defendant admits the allegations of Paragraph 3.

4. Defendant admits the allegations of Paragraph 4.

5. Defendant admits that on or about February 23, 2007, Plaintiff placed an order with Defendant for the manufacture of 1816 units of sneakers known as "Royal Court Bomb Pop Prokeds," which Defendant agreed to manufacture for the price of \$28,529.36 for shipment to Plaintiff in the United States. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 5 and therefore denies the same.

6. Defendant admits that on or about March 5, 2007, Plaintiff placed an order with Defendant for the manufacture of 2700 units of sneakers known as "Royal Court Bomb Pop Prokeds," which Defendant agreed to manufacture for the price of \$42,417.00 for shipment to Plaintiff in the United States. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 6 and therefore denies the same.

7. Defendant admits that on or about March 8, 2007, Plaintiff placed an order with Defendant for the manufacture of 1800 units of sneakers known as "Royal Court Bomb Pop Prokeds," which Defendant agreed to manufacture for the price of \$28,278.00 for shipment to Plaintiff in the United States. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 7 and therefore denies the same.

8. Defendant admits that on or about March 13, 2007, Plaintiff placed an order with Defendant for the manufacture of 2412 units of sneakers known as "Royal Court Bomb Pop Prokeds," which Defendant agreed to manufacture for the price of \$37,892.52 for shipment to

Plaintiff in the United States. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 8 and therefore denies the same.

9. Defendant admits that on or about March 13, 2007, Plaintiff placed an order with Defendant for the manufacture of 1800 units of sneakers known as "Royal Court Bomb Pop Prokeds," which Defendant agreed to manufacture for the price of \$28,278.00 for shipment to Plaintiff in the United States. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 9 and therefore denies the same.

10. Defendant admits that on or about May 7, 2007, Plaintiff placed an order with Defendant for the manufacture of 1784 units of sneakers known as "Royal Court Bomb Pop Prokeds," which Defendant agreed to manufacture for the price of \$28,0226.64 for shipment to Plaintiff in the United States. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 10 and therefore denies the same.

11. Defendant admits that Plaintiff and Defendant agreed on specifications for the finished Royal Court Bomb Pop Prokeds and that the finished product would match said specifications and tolerances. Defendant admits that the finished product would be manufactured and shipped according to an agreed schedule. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 11 and therefore denies the same.

12. Defendant admits that it agreed to furnish Royal Court Bomb Pop Prokeds prototype and early production sneakers to Plaintiff. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 12 and therefore denies the same.

13. Defendant admits the allegations of Paragraph 13.

14. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 14 and therefore denies the same.

15. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 15 and therefore denies the same.

16. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 16 and therefore denies the same.

17. Defendant admits that some sneakers were shipped directly to customers of Plaintiff. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 17 and therefore denies the same.

18. Paragraph 18 contains conclusions of law to which no response is required; to the extent a response is required, Defendant denies those allegations.

19. Paragraph 19 contains conclusions of law to which no response is required; to the extent a response is required, Defendant denies those allegations.

20. Paragraph 20 contains conclusions of law to which no response is required; to the extent a response is required, Defendant denies those allegations.

21. Paragraph 21 contains conclusions of law to which no response is required; to the extent a response is required, Defendant denies those allegations.

### **AFFIRMATIVE DEFENSES**

As affirmative defenses, Defendant states as follows:

#### **FIRST**

1. Plaintiff's Complaint fails to state a claim upon which relief can be granted.

#### **SECOND**

2. Plaintiff's own actions place it in breach of certain provisions of contracts with the Defendant, and by reason of these breaches of contract, Defendant has been excused of its duties to perform any obligations set forth in any such purported contract.

**THIRD**

3. Plaintiff's claims are barred in whole or in part by Plaintiff's failure to mitigate its alleged damages.

**FOURTH**

4. Plaintiff's claims are barred in whole or in part by the doctrine of laches.

**FIFTH**

5. Plaintiff's claims are barred in whole or in part by the doctrine of estoppel.

**SIXTH**

6. Plaintiff's claims are barred in whole or in part by the doctrine of waiver.

**SEVENTH**

7. Plaintiff's claims are barred in whole or in part by the doctrine of unclean hands.

WHEREFORE, Defendant respectfully requests that the Court deny all relief sought by Plaintiff, enter judgment in favor of Defendant and against Plaintiff on Plaintiff's Complaint and award to Defendant such relief as this Court deems just.

**COUNTERCLAIMS**

Counterclaim Plaintiff Shyang Ho Footwear Co., Ltd. ("Shyang Ho"), as and for its counterclaim against Fresh to Death, LLC ("Fresh to Death") and Endurance, LLC ("Endurance"), states as follows:

**JURISDICTION AND VENUE**

1. This is a civil action for damages, injunctive relief, and declaratory relief pursuant to 28 U.S.C. § 2201.
2. This court has jurisdiction under 28 U.S.C. § 1332, as the amount in dispute exceeds \$75,000, exclusive of interest and costs, and the Counterclaim Plaintiff is a citizen of a foreign state and Counterclaim Defendants are citizens of New York.
3. This court has personal jurisdiction over the Counterclaim Defendants, and venue in this district is proper under 28 U.S.C. § 1391 in that the acts complained of herein occurred or impacted this district.

**PARTIES**

4. Counterclaim Plaintiff Shyang Ho Footwear Co., Ltd. is a Taiwan manufacturing company organized under the laws of The Republic of China.
5. Shyang Ho had, for all times relevant to this Complaint, and continues to have its principal place of business in Hong Kong, China.
6. Counterclaim Defendant Endurance, LLC is a New York Corporation which has places of business in New York and Georgia.
7. Counterclaim Defendant Fresh to Death, LLC is a New York Corporation which has places of business in New York and Georgia.
8. At all times relevant to these Counterclaims, for purposes of dealing with Shyang Ho, Endurance and Fresh to Death were a single enterprise, and Shyang Ho is entitled to treat the companies as a single Counterclaim Defendant.<sup>1</sup>

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<sup>1</sup> Plaintiff's Complaint names only Fresh to Death as Plaintiff. Defendant's Counterclaims treat Endurance and Fresh to Death as a single entity. For purposes of its Counterclaims, Defendant will use the singular "Counterclaim-Defendant" or "Endurance/Fresh to Death," but will refer separately to Endurance, LLC and Fresh to Death, LLC where necessary.

9. Endurance and Fresh to Death share an owner in common, operate out of the same suite of offices at 530 Seventh Avenue, New York, New York, share employees on said premises, with each company paying a portion of those employees' salaries, and share at least one salesperson. See Affidavit of Tom Nastos, paragraphs 19-20, attached hereto as Exhibit A.

10. All e-mail communication between Shyang Ho and Endurance/Fresh to Death regarding the delayed payments was done through Endurance's e-mail addresses. See e-mails attached hereto as Exhibit B (showing Counterclaim Defendant's employees' e-mails "@endurance1914.com").

11. Shyang Ho frequently communicated with Endurance/Fresh to Death through cross-titled employees. See, e.g. Exhibit B (showing "Samantha Huang, Accounts Payable, Endurance LLC/Fresh to Death LLC").

12. The footwear manufactured by Shyang Ho is warehoused in Georgia at a warehouse belonging to Endu-Logistics, LLC, a company organized by Endurance, LLC. See Exhibit C, attached hereto (e-mail from Michael Deutsch regarding inspection at "Endu-Logistics" warehouse); Exhibit D, attached hereto (business information provided by Georgia Secretary of State).

13. Shyang Ho's demand letter for payment of past due invoices, attached hereto as Exhibit E, was addressed to Endurance, LLC. Michael Deutsch responded to that letter on behalf of Endurance, said e-mail attached hereto as Exhibit F, and noted that "Endurance and your client, Shyang Ho Footwear Co., Ltd. have been doing business for the last three years... It is Endurance's intention to pay all monies that are legitimately past due and owing to all factories in the very near future, but we can not be threatened in terms of unreasonable time constraints."

**COUNT ONE**  
**BREACH OF CONTRACT**

14. Shyang Ho incorporates by reference each and every allegation contained in each paragraph above.

15. Beginning in 2004, Shyang Ho supplied footwear to Endurance/Fresh to Death under agreed payment terms, satisfied by letters of credit. Copies of sample purchase orders from Endurance/Fresh to Death to Shyang Ho are appended hereto as Exhibit G.

16. Beginning on or about November 29, 2006, Shyang Ho repeatedly notified Endurance/Fresh to Death that its payments were seriously late. Despite these notices, Endurance/Fresh to Death continued to accrue significant outstanding obligations to Shyang Ho. Copies of these notices are appended hereto as Exhibit B.

17. By April 2007, Endurance/Fresh to Death's outstanding balance owed to Shyang Ho exceeded \$400,000.00. In response to repeated inquiries from Shyang Ho, Endurance/Fresh to Death assured Shyang Ho by e-mail that payment was forthcoming and that arrangements were being made with Endurance/Fresh to Death's bank to effectuate payment. A copy of this e-mail is appended hereto as Exhibit H.

18. In reliance on these assurances, Shyang Ho continued to supply footwear to Endurance/Fresh to Death, while continuing to demand payment for prior deliveries. In response, Endurance/Fresh to Death continued to promise payment and proposed multiple payment schedules, none of which were followed. Copies of these schedules are appended hereto as Exhibit I.

19. On October 20, 2007, Shyang Ho notified Endurance/Fresh to Death of its demand for prompt payment of the \$469,560.75 outstanding balance, consisting of \$268,614.58 due for orders shipped to Endurance/Fresh to Death, and an additional \$200,946.17 in debit notes owed



to Shyang Ho by Endurance/Fresh to Death. A copy of the demand letter is appended hereto as Exhibit E. No payment was made in response to this notice

20. More than thirteen months have passed since Shyang Ho's initial demand for payment. More than seven months have passed since Shyang Ho's demand letter, and Endurance/Fresh to Death has not paid any of the balance due to Shyang Ho.

21. Over the past nine months, Endurance/Fresh to Death has asserted no valid legal reason or defense as to why the outstanding obligations should not have been paid to Shyang Ho when they were initially due. While Endurance/Fresh to Death now seeks credits for certain allegedly defective product, even if all those credits were granted, Endurance/Fresh to Death would still owe Shyang Ho at least \$369,560.75.

22. By wrongly fully withholding payments owed to Shyang Ho, Endurance/Fresh to Death has breached the terms of its contracts with Shyang Ho.

23. As a result of Endurance/Fresh to Death's breach, Shyang Ho has suffered harm, including substantial damages.

**COUNT TWO**  
**BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**

24. Counterclaim Plaintiff incorporates by reference each and every allegation contained in each paragraph above.

25. Endurance/Fresh to Death's promises to pay and subsequent failures to make any payments to Shyang Ho when those payments were due, as described above, constitutes an ongoing breach of the implied covenant of good faith and fair dealing found in every contract, including the contracts between Shyang Ho and Endurance/Fresh to Death, which contracts are evidenced by purchase orders and an extended course of dealing.

26. As a result of this breach, Shyang Ho has suffered harm, including substantial damages.

**COUNT THREE**  
**MISREPRESENTATION**

27. Counterclaim Plaintiff incorporates by reference each and every allegation contained in each paragraph above.

28. At various times, Endurance/Fresh to Death represented to Shyang Ho that it would pay the outstanding obligations pursuant to a proposed payment schedule. Endurance/Fresh to Death has an obligation to Shyang Ho to be truthful in such statements.

29. However, those representations were false, as Shyang Ho did not receive payment according to the proposed schedules, and has not received any payment of the outstanding obligations to date.

30. As a result of these misrepresentations, Shyang Ho has suffered harm, including substantial damages.

**COUNT FOUR**  
**NY GBL SEC. 349(A) AND (H)**

31. Counterclaim Plaintiff incorporates by reference each and every allegation contained in each paragraph above.

32. By knowingly and/or willfully failing to pay amounts due to Shyang Ho under the purchase orders in hopes of securing more favorable payment terms, and by knowingly and/or willfully making false promises to pay to encourage Shyang Ho to continue manufacturing footwear for Endurance/Fresh to Death despite its mounting unpaid obligations, Endurance/Fresh to Death has engaged in unfair and deceptive business practices.

33. Endurance/Fresh to Death has engaged in business, trade or commerce within the meaning of NY GBL Sec. 349(a) through its dealings with Shyang Ho.

34. Endurance/Fresh to Death's use of unfair and deceptive trade practices was a willful or knowing violation of NY GBL Sec. 349(a) and (h).

35. Endurance/Fresh to Death should be held liable to Shyang Ho for multiple damages and attorneys' fees incurred in collecting the amounts due it.

WHEREFORE, Shyang Ho prays judgment against Endurance/Fresh to Death as follows:

1. For damages in the amount of at least \$75,000;
2. For Shyang Ho's costs in this action;
3. For Shyang Ho's reasonable attorneys' fees in bringing and prosecuting this action;
4. For multiple damages; and
5. For such other and further relief as the Court may deem just and proper.

**JURY DEMAND**

Defendant/Counterclaim Plaintiff Shyang Ho demands a trial by jury on all counts so triable.

Shyang Ho Footwear Co., Ltd.,

By its attorneys,

/s/ Blair C. Fensterstock  
\_\_\_\_\_  
Blair C. Fensterstock (BF-2020)  
FENSTERSTOCK & PARTNERS LLP  
30 Wall Street  
New York, NY 10005  
(212) 785-4100

Dated: June 11, 2008

**Exhibit A: Affidavit of Tom Nastos**

B3081863.2

FILED  
IN CLERKS OFFICE

SHYANG HO FOOTWEAR CO., LTD.,

PLAINTIFF, CIVIL ACTION NO. 08-10312

**ENDURANCE, LLC d/b/a Fresh To  
Death, LLC,**

DEFENDANT.

STATE OF NEW YORK )  
 ) ss:  
NEW YORK COUNTY )

**TOM NASTOS, being duly sworn, deposes and says:**

1. Your Affiant makes this Affidavit in support of the within motion by the Defendant to dismiss the complaint filed herein on the grounds that:

a) that there is a lack of personal jurisdiction in this case because the required minimum contacts with Massachusetts are lacking;

b) the Plaintiff lacks a bona fide claim upon which suit may be founded because the Plaintiff never did business with the Defendant in this case;

c) there exists a pre-existing law suit in Supreme Court for the State of New York

between the Plaintiff in this action and Fresh-To-Death, LLC involving exactly the same contract claim which the Plaintiff seeks to advance in the instant case;

d) The Defendant engaged in no deceptive or unfair practices with respect to the Plaintiff and certainly no deceptive or unfair practices ever took place within Massachusetts so that the Plaintiff has no claim whatsoever pursuant to M.G.L.A. 93A §11.

2. Your Affiant functions as the Operating Member for the limited liability company "Endurance, LLC" (hereinafter "Endurance") and also for the separate and distinct limited liability company known as "Fresh-To-Death, LLC" (hereinafter "Fresh To Death") and is personally familiar with the facts and events set forth herein.

3. The Plaintiff brings a claim allegedly based upon a contract or contracts for the production of footwear.

4. The contracts were between the Plaintiff and Fresh To Death as is shown by the purchase orders attached as Exhibit 1 hereto. These purchase orders are put forward by the Plaintiff in its complaint (at Exhibit A) as the foundation for this action.

5. Every one of these purchase orders was between Plaintiff and Fresh To Death. Not one of these purchase orders was between Plaintiff and Endurance! This was because Plaintiff never contracted with Endurance to manufacture and supply anything.

6. Moreover, these purchase orders were between Plaintiff which was located in Dis. Pin-Chou Town, Nan-Hai Cntry Guang Dong Province, China and Fresh To Death which was located at 530 7<sup>th</sup> Avenue, New York, New York. The footwear produced by the Plaintiff was shipped to RD Simpson, Inc., 55 Zena Drive, Cartersville, Georgia and/or to CJ Logistics which is located at 17 Empire Blvd., Hackensack, New Jersey as shown from the face of the purchase orders themselves. All payments against these purchase orders was made by letter of



credit drawn by Fresh To Death as shown at Exhibit 2 hereto.

7. Neither Plaintiff nor Fresh To Death were located in Massachusetts with respect to these purchase orders or any other aspect of their business relationship.

8. These purchase orders or any business relationship which the Plaintiff had with Fresh To Death was established outside the State Of Massachusetts.

9. Neither Fresh To Death nor Endurance ever had an office in Massachusetts.

10. Endurance is a limited liability company formed under the laws of the State of New York. Endurance was formed and commenced doing business at September 14, 2001. A copy of the limited liability company certificate of formation and Articles Of Organization filed by Endurance appears at Exhibit 3 hereto. Endurance does not use a "d/b/a" name and "Fresh To Death, LLC" is not a d/b/a and is not used as a "d/b/a."

11. Fresh To Death is a limited liability company formed under the laws of the State of New York. Fresh To Death was formed and commenced doing business at May 13, 2004. A copy of the limited liability company certificate of formation and Articles Of Organization filed by Fresh To Death appears at Exhibit 4 hereto. Fresh To Death does not use a "d/b/a" name and "Endurance, LLC" is not a d/b/a and is not used as a "d/b/a."

12. At all times from their respective formations , Endurance ("Endurance") and Fresh To Death (hereinafter "Fresh To Death") have been separate and distinct entities involved in different businesses.

13. Each of these entities has its own operating agreement. A copy of the Operating Agreement of Endurance appears at Exhibit 5 hereto. A copy of the Operating Agreement of Fresh To Death appears at Exhibit 6 hereto.

14. Endurance engages **only** in the business of designing, producing and selling apparel. It



does not, and has not, sold footwear.

15. Fresh To Death engages **only** in the business of designing, producing and selling footwear. It does not sell apparel. At one time it investigated the sale of apparel but abandoned the attempt.

16. Each company has its own distinct license agreements and branded products.

17. Endurance and Fresh To Death each file separate and independent tax returns.

18. Endurance and Fresh To Death each have their own separate and independent bank account and each has its own separate and independent factoring agreement by which its respective business is conducted.

19. With the exception of one salesperson, the salespersons of for Endurance work only for Endurance and the sales team of Fresh To Death works only on sales for Fresh To Death.

20. Both Endurance and Fresh To Death utilize the same premises in New York City at 530 Seventh Avenue, New York, New York, and they share some of the same employees on the premises with each company paying a portion of those employees' salaries. There are a few officers, such as your Affiant, who perform functions for each company. But, these are the only connections. Each company, with the exception of your Affiant, has different members/owners.

21. Fresh To Death sells its footwear on a national basis but only about .1 per cent (approximately \$45,000.00 of \$45,000,000 gross over four years) of its footwear sales reach stores in the state of Massachusetts.

22. As already been noted, Endurance has never made any contracts with Plaintiff, and the repeated allegations made in the complaint in this action that Plaintiff supplied footwear to Endurance are false. Plaintiff supplied footwear to Fresh To Death, not Endurance, and any dispute which the Plaintiff might have is with Fresh To Death alone which has not been sued in

this case.

23. Endurance does not owe any money to Plaintiff as it never contracted with Plaintiff for the production of footwear or anything else. If this Court, arguendo, finds that Fresh To Death has in fact actually been sued and is a Defendant in this case, Fresh To Death does not owe any money either to the Plaintiff.

24. The Court's attention is respectfully drawn to the point that pursuant to contracts entered into between Fresh To Death and the Plaintiff, the Plaintiff manufactured and shipped footwear which was materially non-conforming with the specifications established for the manufacture of such footwear and with samples provided to Fresh To Death by the Plaintiff upon which extensive sales were made by Fresh To Death to its customers. Because the footwear goods as produced and delivered by the Plaintiff were materially non-conforming, the customers of Fresh To Death to which the footwear had been sold either refused to take delivery or made returns of goods in a quantity which has resulted in a loss and damages to Fresh To Death of approximately \$620,000.00.

25. More specifically, the Plaintiff contracted to supply approximately 12,000 pair of sneakers of a special design with clear soles. But the footwear, when delivered, had yellow to orange colored soles which were distinctly different from the approval sample and sales sample earlier provided by the Plaintiff to Fresh To Death and entirely unacceptable to the customers who had bought these goods on the basis of the sales samples.

26. During the late summer and fall of 2007, Fresh To Death notified Plaintiff of the serious non-conformity problem, of Fresh To Death's resulting inability to sell the non-conforming footwear, and that Fresh To Death was entitled to charge back the costs of the footwear to the Plaintiff.

27. The notification by Fresh To Death to Plaintiff of the non-conformity problem and subsequent correspondence relating to such non-conformity problem and the demands by the Plaintiff, notwithstanding the problem, for payment in full were all done by eMail between the Plaintiff in Taiwan and the Defendant in New York City, New York. None of this correspondence took place in the State of Massachusetts.

28. On November 14, 2007, Yayo Ye, an officer of the Plaintiff, acknowledged the existence of the non-conformity problem, admitted the Plaintiff's mistake and failure to produce the proper goods and apologized to the Plaintiff. Mr. Ye said:

We really understand that there are difficulties selling those shoes with yellowed ice outsoles, here we truly express our great sorry. And we will look for better factory to handle such outsoles.

Please see the eMail at Exhibit 6 hereto. It is to be noted that a copy of this eMail was sent to Paul Tseng who your Affiant understands to be the owner of the Plaintiff and to Sam Sun who your Affiant understands to be the chief financial officer of the Plaintiff.

29. In the fall of 2007, the Plaintiff was being represented by Colin J. Zick, Esq. of Foley Hoag LLP who was, your Affiant understands, responsible for the drafting and bringing of the instant law suit. Said Colin J. Zick, Esq. signed the complaint in the instant case. Apart from the Plaintiff's having actual knowledge that there was a major problem with the goods which had been produced and delivered and that Plaintiff was obliged to take the goods back or write them off, Fresh To Death, in response to a letter demanding payment to Plaintiff for the non-conforming goods, repeatedly reminded said Colin J. Zick, Esq. of the seriousness of the non-conformity problem and of the claim which Fresh To Death had under its contract(s) with Fresh To Death against the Shyang Ho Footwear Ltd. In fact, after Mr. Zick had been reminded of the non-conformity problem, an inspection of a number of the non-conforming footwear

produced and shipped by the Plaintiff was arranged by Fresh To Death and conducted by a representative of the Plaintiff at a warehouse in Cartersville, Georgia on January 9, 2008, more than one month before the instant action was commenced in this Court. Please see eMails confirming the proposed inspection at Exhibit 8 hereto. Thereafter, Colin J. Zick, Esq. acknowledged to Fresh To Death his understanding that there was a big non-conformity problem.

30. When Shyang Ho Footwear, Ltd. did not appear to be willing to respond in good faith to the demand of Fresh To Death for a credit equal to the value of the non-conforming footwear and for the loss to Fresh To Death of profits on the sales which it had made, Fresh To Death commenced an action in Supreme Court of the State Of New York, New York County on December 7, 2007 against the Plaintiff. The name of this action in Supreme Court, New York is: Fresh To Death, LLC v. Shyang Ho Footwear Co., Ltd., index no. 604022/2007. Your Affiant is advised by counsel that because Shyang Ho Footwear Co., Ltd. did not have an office in the United States and no treaty for service existed between the United States and Taiwan, special provision had to be made under Letters Rogatory to make service upon Shyang Ho Footwear Co., Ltd. in Taiwan, Republic Of China.

31. The pending law suit in Supreme Court, New York arises out of exactly the same contract(s) which the Plaintiff bases its claim upon in the instant action in this Court. A copy of the complaint in said New York lawsuit appears at Exhibit 8 hereto.

32. Your Affiant is informed by counsel, that said Colin J. Zick, Esq. and the Plaintiff had ample knowledge of the existence of an affirmative defense and sizable counterclaim (one that now amounts to about \$620,000.00) against the Plaintiff which would bar the Plaintiff from obtaining a judgment for the claim alleged in the complaint. Nonetheless, said Colin J. Zick, Esq.

and Foley Hoag, LLP determined to go ahead anyway and prosecute this action. Your Affiant is further informed by counsel that in addition to basing its claim upon the contract with Fresh To Death, the Plaintiff, with knowledge of its own default, invoked a Massachusetts statute that allows for a finding of extra damages and attorneys' fees because of "unfair business practices" engaged in by the Defendant. Your Affiant is further informed by counsel that the effort on the part of Defendant to try to obtain through discussion the recognition by the Plaintiff of the fact that Plaintiff failed in its duty under its contract with consequent damage to the Defendant would not constitute an "unfair business practice." Moreover, the instant suit, if the claims therein were in fact valid, was nonetheless brought against the wrong entity.

33. Your Affiant respectfully requests that this Court make an order granting dismissal of the complaint in its entirety because this Court lacks personal jurisdiction, because the Defendant never entered into a contract with the Plaintiff, because there existed and exists a pre-existing law suit in New York State covering the same basis upon which the instant suit is founded and because certain of the claims and allegations in the instant suit were not invoked appropriately.

WHEREFORE, it is prayed that an order be made granting dismissal of the complaint in this action on one or more of the grounds set forth above.

Sworn to before me this 4<sup>th</sup> day

of April, 2008



Notary Public, State Of New York

No. 02RA6038253



TOM NASTOS

**Exhibit B: E-mails notices of delayed payments**

B3081863.2

From: Slosberg, Tom  
Sent: Thursday, August 17, 2006 11:49 AM  
To: Jones, Merrick; Neville, Shawn  
Cc: Chang, Richard  
Subject: Fw: ShyangHo payments

Merrick, do you think paul can live with the schedule below?

-----Original Message-----

From: Robert Luo <robert.luo@endurance1914.com>  
To: Slosberg, Tom <Tom\_Slosberg@StrideRite.com>; Dale Dickinson  
<dale@endurance1914.com>  
CC: Jennifer Shen <jennifer.s@endurance1914.com>; Samantha Huang  
<samantha@endurance1914.com>; Melissa Chorzepa  
<melissa@endurance1914.com>; Tom Nastos <tom.nastos@endurance1914.com>  
Sent: Thu Aug 17 11:42:41 2006  
Subject: FW: ShyangHo payments

Tom S, Dale,

Total due to Shyang Ho and Nam Po is as follows

Total as 8/16/06

1,763,688.80

Our payment schedule is to pay:

8/17/2006

393,720.00

8/25/2006

230,140.80

9/1/2006

413,535.60

9/8/2006

372,543.10

9/15/2006

132,992.80

9/22/2006

214,314.00

9/29/2006

6,442.50

Please let the factory verify.

To clarify the future payment terms, in case we need to pay by t/t, we will pay in 10 days after we receive the goods. Please confirm.



Regards.

Robert

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From: Samantha Huang  
Sent: Thursday, August 17, 2006 10:54 AM  
To: Robert Luo; Jennifer Shen  
Subject: RE: ShyangHo payments

Samantha Huang

Accounts Payable

Endurance LLC/ Fresh To Death LLC

(P) 917-661-4557

(F) 212-719-2507

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From: Robert Luo  
Sent: Thursday, August 17, 2006 8:40 AM  
To: Slosberg, Tom  
Cc: Jennifer Shen; Samantha Huang; Tom Nastos  
Subject: RE: ShyangHo payments

Tom S,

I will give a reply today.

Jennifer, Samantha,

Let's work on this in the morning.

Robert

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From: Slosberg, Tom [mailto:Tom\_Slosberg@StrideRite.com]  
Sent: Thursday, August 17, 2006 6:18 AM  
To: Robert Luo  
Subject: Fw: ShyangHo payments  
Importance: High

This is serious. Factory says magic samples will not go out unless 700k  
june owed is paid

-----Original Message-----

From: Chang, Richard <Richard\_Chang@StrideRite.com>  
To: Slosberg, Tom <Tom\_Slosberg@StrideRite.com>;  
(tom.nastos@endurance1914.com) <tom.nastos@endurance1914.com>  
CC: (dale@endurance1914.com) <dale@endurance1914.com>;  
paul@shyangho.com <paul@shyangho.com>; Jones, Merrick  
<Merrick\_Jones@StrideRite.com>  
Sent: Thu Aug 17 02:01:28 2006  
Subject: ShyangHo payments

Hi Tom,

We have a very serious problem regarding payments to ShyangHo. Paul has been very patient with Endurance and has made every effort to work with you on the delayed payments. However, he has advised me that all sampling (including MAGIC) and production (all orders) will be stopped this Friday unless he receives a clear answer as to when he will be receiving the remainder that is owed to him. Currently, Endurance owes about \$1.5 million for the month of June - middle of July. NamPo is owed about \$300,000. Paul would like to receive the amount owed to his factory and NamPo to cover for the months of June and some of July.

He is constantly having his team work non-stop to make all the samples we need each and every month and has at times, pushed out other customers to clear space in his sample room for us. He's been a very good partner to us and this delayed payment situation has put all in a very bad position.

Please provide Paul with a clear answer regarding payment so we can ensure that all samples and orders do not get delayed.

Thanks,  
Rich

<<Pro-Keds Outstanding List0816 .xls>>

## OUTSTANDING STATEMENT - PRO-KEDS AS OF AUG 16, 2006

FACTORY	L / C NO. or OPEN A/C	INVOICE	INVOICE DATE	PO#	ETD	AMOUNT	BILLS NEG. DATE	PAYMENT SCH.
SH	OPEN A/C	RL-060732	6/1/2006	419, 420, 421, 427, 422	6/18/2006	225,120.00	--	8/17/2006
SH	OPEN A/C	RL-060732B	6/1/2006	423, 428, 429	6/18/2006	35,400.00	--	8/17/2006
SH	OPEN A/C	RL-060688B	6/6/2006	464	6/18/2006	23,040.00	--	8/17/2006
SH	OPEN A/C	RL-060732A	6/14/2006	431	6/18/2006	92,160.00	--	8/17/2006
SH	OPEN A/C	RL-060732E	6/14/2006	465	6/18/2006	7,020.00	--	8/17/2006
SH	OPEN A/C	RL-060732C	6/1/2006	437	6/20/2006	10,980.00	--	8/17/2006
SH	OPEN A/C	RL-060733	6/1/2006	446, 450	6/25/2006	25,020.00	--	8/25/2006
SH	OPEN A/C	SH-060763	6/1/2006	434, 435, 459	6/25/2006	55,416.00	--	8/25/2006
SH	OPEN A/C	SH-060764	6/1/2006	424, 425, 426, 430, 447, 448, 449	6/25/2006	54,468.00	--	8/25/2006
SH	OPEN A/C	SH-060765B	6/1/2006	462, 463	7/3/2006	38,212.80	--	8/25/2006
SH	OPEN A/C	SH-060688A	6/1/2006	523	7/5/2006	57,024.00	--	8/25/2006
SH	OPEN A/C	SH-060768	7/1/2006	472, 479, 480, 481, 483, 548, 549, 550	7/9/2006	74,011.60	--	9/1/2006
SH	OPEN A/C	RL-060774	7/1/2006	477, 478	7/9/2006	44,996.00	--	9/1/2006
SH	OPEN A/C	SH-060765	7/1/2006	451, 452, 453, 458	7/10/2006	125,685.60	--	9/1/2006
SH	OPEN A/C	RL-060765A	7/1/2006	456, 457, 454, 455	7/10/2006	96,960.00	--	9/1/2006
SH	OPEN A/C	SH-060772A	7/1/2006	486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 503, 504	7/10/2006	58,022.40	--	9/1/2006
SH	OPEN A/C	RL-060775	7/1/2006	413	7/10/2006	13,860.00	--	9/1/2006
SH	OPEN A/C	SH-060771	7/1/2006	483, 484, 485, 471	7/16/2006	158,512.00	--	9/8/2006
SH	OPEN A/C	SH-060777	7/1/2006	510, 512, 513, 514	7/16/2006	40,365.60	--	9/8/2006
SH	OPEN A/C	RL-060800	7/1/2006	473, 476, 482, 502	7/16/2006	74,605.50	--	9/8/2006
SH	OPEN A/C	SH-060770	7/1/2006	553	7/17/2006	32,400.00	--	9/8/2006
SH	OPEN A/C	SH-060773	7/1/2006	471, 474	7/23/2006	66,660.00	--	9/8/2006
SH	OPEN A/C	RL-060823A	7/19/2006	RU1044-176, 473, 475	7/22/2006	3,720.00	--	9/15/2006
SH	OPEN A/C	SH-060776	7/1/2006	509	7/23/2006	25,420.00	--	9/15/2006
SH	OPEN A/C	RL-060802	7/1/2006	518, 519, 520, 521, 522	7/23/2006	103,852.80	--	9/15/2006
SH	OPEN A/C	SH-060774	7/1/2006	515, 516, 517, 525, 526, 527, 528, 529, 551, 552	7/30/2006	172,734.00	--	9/22/2006
SH	OPEN A/C	RL-060803	7/1/2006	556	7/30/2006	41,580.00	--	9/22/2006
SH	OPEN A/C	SH-060778	7/25/2006	575, 576, 577, 578, 579, 580, 626	8/5/2006	6,442.50	--	9/29/2006

1,763,688.80

8/17/2006 393,720.00  
 8/25/2006 230,140.80  
 9/1/2006 413,535.60  
 9/8/2006 372,543.10  
 9/15/2006 132,992.80  
 9/22/2006 214,314.00  
 9/29/2006 6,442.50  
 Total as 8/16/06 1,763,688.80



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**From:** (SH-H40) Kimmy Liu  
**Sent:** Wednesday, January 03, 2007 4:31 AM  
**To:** 'Connie Kong'  
**Cc:** Jennifer Shen; Melissa Chorzepa; (SH-H10) Paul Tseng; Endurance / Merrick\_Jones  
**Subject:** RE: Nov/30 The Updated Outstanding List  
**Follow Up Flag:** «Y³B²z  
**Flag Status:** Red  
**Attachments:** Pro-Keds Outstanding List .xls

Hi Connie,

Confirmed our receipt of remittance \$139,285.60 with many thanks!

Enclosed, please find the updated outstanding list and confirm your payment schedule A.S.A.P.

With regards,  
Kimmy

---

**From:** Connie Kong [mailto:connie@endurance1914.com]  
**Sent:** Saturday, December 30, 2006 1:33 AM  
**To:** (SH-H40) Kimmy Liu  
**Cc:** Jennifer Shen; Melissa Chorzepa; (SH-H10) Paul Tseng; Endurance / Merrick\_Jones  
**Subject:** RE: Nov/30 The Updated Outstanding List

Hi Kimmy:

The bank will process T/T payment for \$139,285.60 today. Please confirm when you receive it. Thanks.

Happy New Year!  
Connie

---

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]  
**Sent:** Monday, December 18, 2006 9:11 PM  
**To:** Connie Kong  
**Cc:** Jennifer Shen; Melissa Chorzepa; (SH-H10) Paul Tseng; Endurance / Merrick\_Jones  
**Subject:** RE: Nov/30 The Updated Outstanding List

1/22/2008

Dear Connie,

Pls advise if you have made the remittance \$139,285.60 (scheduled pay-date Dec/08) to us?

Meanwhile, based on our agreement as below, please remit the 1<sup>st</sup> payment \$15,240.00 for PO#741 as well.

1. 2 weeks after ship date- T/T payment of 30% of total PO is paid to the factory.
2. Upon receipt of goods – the balance 70% of each PO is made T/T payment to the factory.

With regards,

Kimmy

---

**From:** Connie Kong [mailto:connie@endurance1914.com]

**Sent:** Thursday, December 14, 2006 10:41 PM

**To:** (SH-H40) Kimmy Liu

**Cc:** Jennifer Shen; Melissa Chorzepa; (SH-H10) Paul Tseng

**Subject:** RE: Nov/30 The Updated Outstanding List

Dear Kimmy:

Sorry for delay, we are working on renew contract with **our factor** so that the bank will delay of T/T payment. Please wait for two more days. We try to push the bank send out your T/T payment ASAP.

Regards,  
Connie

---

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]

**Sent:** Thursday, December 14, 2006 4:41 AM

**To:** Connie Kong

**Cc:** Jennifer Shen; Melissa Chorzepa; (SH-H10) Paul Tseng

**Subject:** RE: Nov/30 The Updated Outstanding List

Dear Connie,

Please confirm and send the cable receipt if you have made the remittance on Dec/8 as scheduled.

Rgds,  
Kimmy

---

**From:** Connie Kong [mailto:connie@endurance1914.com]

**Sent:** Friday, December 01, 2006 12:55 AM

1/22/2008

**To:** (SH-H40) Kimmy Liu

**Cc:** Jennifer Shen; Melissa Chorzepa

**Subject:** RE: Nov/30 The Updated Outstanding List

Hi Kimmy:

We will schedule PO#635/636/637/638/639 for \$151,330.00 tomorrow (12/1/06). Please find update T/T payment schedule.

Thanks,

Connie

---

**From:** Jennifer Shen

**Sent:** Thursday, November 30, 2006 8:55 AM

**To:** Connie Kong

**Subject:** FW: Nov/30 The Updated Outstanding List

---

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]

**Sent:** Wednesday, November 29, 2006 9:43 PM

**To:** Jennifer Shen

**Cc:** Melissa Chorzepa; (SH-H10) Paul Tseng

**Subject:** Nov/30 The Updated Outstanding List

Dear Jennifer,

Attached, please find the updated outstanding list and confirm your payment schedule urgently. Those payments have been seriously delayed, in order to avoid affecting the payment terms (L/C or T/T) for future orders, we expect those outstanding invoices will be paid within next week.

Thanks & regards,

Kimmy Liu

Shyang Ho Footwear Co., Ltd.

Tel:886-424072538 ext.601

Fax:886-424077656

<mailto:kimmy@shyangho.com.tw>

1/22/2008





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**From:** Connie Kong [connie@endurance1914.com]  
**Sent:** Wednesday, March 28, 2007 11:20 AM  
**To:** (SH-H40) Kimmy Liu  
**Cc:** Jennifer Shen; Robert Luo; (SH-H10) Paul Tseng  
**Subject:** RE: Pro-Kids Outstanding Statement  
**Follow Up Flag:** «Y³B²z  
**Flag Status:** Red  
**Attachments:** Shyang PMT.XLS

Hi Kimmy:

Noted with thanks letting me know \$80,472.24 overpaid but I use Green highlighted to release those 70% invoices from the overpaid amount. Please see updated outstanding and the new payment schedule as attached so the total balance would be \$420,359.56 now not including sample charges. Please confirm the way of changing payment schedule.

Thanks a lot,  
Connie

---

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]  
**Sent:** Wednesday, March 28, 2007 5:18 AM  
**To:** Connie Kong  
**Cc:** Jennifer Shen; Robert Luo; (SH-H10) Paul Tseng  
**Subject:** RE: Pro-Kids Outstanding Statement

Dear Connie,

Confirmed our receipt of remittance \$199,777.89 today with thanks. However, there're two issues as follows:

1. It took some days for receiving the remittance due to the errors made at your end. Please correct your record in order to avoid such kind of mistakes happen again in the future.  
Beneficiary's name: APODIC LTD. (wrong) → APODIS LTD. (correct)  
Account#: 961511002002 (wrong) → 96511002002 (correct)
2. As to 30% portion, some invoices have been paid for twice (attached e-mail for reference), please see the details highlighted in pink, which means 60% of the mentioned invoice was paid. So the total balance would be \$420,359.56, please check the updated outstanding list as attached.

Please let us know if any questions or changes on payment schedule.

1/22/2008

With regards,

Kimmy

---

**From:** Connie Kong [mailto:connie@endurance1914.com]

**Sent:** Saturday, March 24, 2007 12:33 AM

**To:** (SH-H40) Kimmy Liu

**Cc:** Jennifer Shen; Robert Luo; (SH-H10) Paul Tseng

**Subject:** RE: Pro-Kids Outstanding Statement

Hi Kimmy:

Wire today \$199,792.89 to cover 30%SH-060827, SH-060825, SH-060826, SH-070003, and 70%SH-060813, SH-060823. Also, cover \$28,553.33 for samples charges as attached spreadsheet. Please confirm when you receive wire transfer.

Thanks,

Connie

---

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]

**Sent:** Wednesday, March 21, 2007 2:49 AM

**To:** Connie Kong

**Cc:** Jennifer Shen; (SH-H10) Paul Tseng

**Subject:** RE: Pro-Kids Outstanding Statement

Dear Connie,

Thanks for the payment information; but your payment schedule and our expectation have a great distance. Anyway please improve the payment schedule as far as possible.

Rgds,

Kimmy

---

**From:** Connie Kong [mailto:connie@endurance1914.com]

**Sent:** Friday, March 16, 2007 5:50 AM

**To:** (SH-H40) Kimmy Liu

**Cc:** Jennifer Shen

**Subject:** RE: Pro-Kids Outstanding Statement

Hi Kimmy:

1/22/2008

Please find the payment scheduled as attached but they will change anytime.

We try to pay the balance sooner.

Thanks,

Connie

---

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]

**Sent:** Thursday, March 15, 2007 5:26 AM

**To:** Connie Kong

**Cc:** Jennifer Shen; (SH-H10) Paul Tseng; Melissa Chorzepa

**Subject:** RE: Pro-Kids Outstanding Statement

Dear Connie,

Should you have any payment information, please let us know.

With regards,

Kimmy

---

**From:** (SH-H40) Kimmy Liu

**Sent:** Tuesday, March 13, 2007 4:24 PM

**To:** 'Connie Kong'

**Cc:** Jennifer Shen

**Subject:** RE: Pro-Kids Outstanding Statement

Hello Connie,

Confirmed our receipt of the remittance \$89,432.28, thanks a lot. We look forward to receiving the balance (70%) within this week.

With regards,

Kimmy

---

**From:** Connie Kong [mailto:connie@endurance1914.com]

**Sent:** Saturday, March 10, 2007 3:49 AM

**To:** (SH-H40) Kimmy Liu

1/22/2008

**Cc:** Jennifer Shen

**Subject:** RE: Pro-Kids Outstanding Statement

Hi Kimmy:

Wire \$89,432.28 to cover 30% SH-060824, SH-060823 and SH-070006 today. We will try to wire more or 70% next week.

Thanks,  
Connie

---

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]

**Sent:** Tuesday, March 06, 2007 8:41 PM

**To:** Connie Kong

**Cc:** Robert Luo; Jennifer Shen; (SH-H10) Paul Tseng

**Subject:** RE: Pro-Kids Outstanding Statement

Dear Connie,

Thanks for your prompt reply. We're expecting to receive the payment within this week.

How about the balance (70%) amount \$591,599.12? Those shipments were all made before/on Jan/20, and the invoices should be paid as well. Please confirm your payment schedule.

Besides, I don't understand what kind of outstanding invoices you need? I believe that you've already received all of full set of shipping documents after each shipment was made. Please kindly make remittances based on the documents received by you.

With regards,  
Kimmy

---

**From:** Connie Kong [mailto:connie@endurance1914.com]

**Sent:** Tuesday, March 06, 2007 12:27 AM

**To:** (SH-H40) Kimmy Liu

**Cc:** Robert Luo; Jennifer Shen

**Subject:** RE: Pro-Kids Outstanding Statement

Hi Kimmy:

1/22/2008

Wire \$89,432.28 this Friday to cover 30% SH-060824, SH-060823, and SH-070006. Please send copies of all outstanding invoices to prepare your payment.

Thanks,  
Connie

---

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]  
**Sent:** Friday, March 02, 2007 10:13 PM  
**To:** Connie Kong  
**Cc:** Robert Luo; Jennifer Shen; Melissa Chorzepa; (SHC-117) Yayo Ye; (SH-H10) Paul Tseng; SHC-117 JennyChang  
**Subject:** Pro-Keds Outstanding Statement

Dear Connie,

Enclosed, please check the updated outstanding statement, and we expect you can keep promise and arrange remittance urgently since those payments have been delayed seriously.

T/T outstanding amount -- \$681,031.40  
L/C not yet opened -- \$633,797.16

In addition, for shipments made on February, the L/C has not been opened so far. Wuxi-Guangming said that it's impossible to solve the L/C issuing within this week as they are having financial problem. Therefore, we'd like to know your payment schedule for those shipments we'd already made on February, and also payment term for future shipments as well. Please confirm.

With regards,

Kimmy Liu  
Shyang Ho Footwear Co., Ltd.  
Tel:886-424072538 ext.601  
Fax:886-424077656  
<<mailto:kimmy@shyangho.com.tw>>

1/22/2008

## DEBIT NOTE SUMMARY - PRO-KEDS AS OF MAR 28, 2007

FACTORY	PAYMENT	INVOICE DATE	DEBIT NOTE #	AMOUNT	
SH	OPEN A/C	01/22/07	07023-011607	\$10,626.45	Sample Shoes
			<b>SUB-TOTAL</b>	<b>\$10,626.45</b>	
FACTORY	PAYMENT	INVOICE DATE	CREDIT NOTE #	AMOUNT	
SH	OPEN A/C	01/22/07	PK200603	(705.00)	Additional freight for delayed PO#742,744,746.
			<b>SUB-TOTAL</b>	<b>(705.00)</b>	
			<b>OUTSTANDING AMOUNT (DIN&amp;C/N OFFSET)</b>	<b>\$9,921.45</b>	Schedule Date

FACTORY	PAYMENT	INVOICE	PO#	AMOUNT	ETD	30% AMOUNT	30% PAYMENT EXPECTED	30% PAYMENT SCH.	70% AMOUNT	70% PAYMENT EXPECTED	70% PAYMENT SCH.
SH	OPEN A/C	SH-060813	741	50,800.00	12/3/2006	(15,240.00)	PAID	2/8	151,839.24	PAID	3/28
SH	OPEN A/C	SH-060817	688, 689, 724	216,913.20	12/9/2006	(65,073.96)	PAID	2/8			4/13/2007
SH	OPEN A/C	SH-060818	791	11,080.00	12/10/2006	(3,324.00)	PAID	2/8		PAID	3/28
SH	OPEN A/C	SH-060824	715, 716, 717, 718, 719, 720, 721, 723	216,363.48	12/24/2006	(64,909.04)	PAID	3/9	151,454.44		4/20/2007
SH	OPEN A/C	SH-060823	707, 709	78,867.60	12/25/2006	(23,660.26)	PAID	3/9	(55,207.32)	PAID	3/28
SH	OPEN A/C	SH-060827	745, 789, 794	56,073.60	12/31/2006	(16,822.08)	PAID	11/28/3/28		PAID	3/28
SH	OPEN A/C	SH-060825	751	28,767.60	1/3/2007	(3,630.26)	PAID	11/28/3/28	20,137.32		5/4/2007
SH	OPEN A/C	SH-060826	742, 744, 746, 747	137,895.60	1/7/2007	(41,565.83)	PAID	11/28/3/28	96,526.92		5/4/2007
SH	OPEN A/C	SH-070003	843	45,504.00	1/14/2007	(13,651.20)	PAID	11/28/3/28	(31,522.80)	PAID	3/28
SH	OPEN A/C	SH-070006	714, 715, 716, 717, 718, 719, 720, 721 805, 806, 807	2,876.52	1/20/2007	(862.96)	PAID	3/9			5/4/2007
				<b>845,141.60</b>		<b>(334,014.72)</b>			<b>420,359.56</b>		

double paid 60% of invoice amount paid

Note: Double paid \$80,472.24 will use on 70% of SH-060818, SH-060827, SH-070003 and partial SH-070006 see above

**Exhibit C: Deutsch e-mail regarding Endu-Logistics**

B3081863.2

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**From:** Michael Deutsch [mailto:mjd@michaeldeutsch.net]  
**Sent:** Thursday, December 06, 2007 11:56 AM  
**To:** Zick, Colin  
**Cc:** dale@endurance1914.com; 'Tom Nastos'; 'Robert Luo'  
**Subject:** Re: Shyang Ho Footwear Co., Ltd. v. Endurance

Dear Colin,

In accordance with our telephone conversation of this morning, this correspondence will confirm that 12:00 noon is not an appropriate time for an inspection at the Endu-Logistics Warehouse. I would suggest Monday, December 10<sup>th</sup>, at 12:00 noon, or earlier.

Please advise.

Personal regards,

Michael J. Deutsch

MJD:gm



**Exhibit D: Business information from Georgia Secretary of State**

B3081863.2



# Georgia Secretary of State

## Karen C. Handel

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### Search

- ▶ [By Business Name](#)
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  - ▶ [Verify Certification](#)
- New Filing
  - ▶ [Click here to file online for:](#)
  - ▶ [New Limited Liability Company \(LLC\)](#)
  - ▶ [New Business Corporation](#)
  - ▶ [New Non-Profit Corporation](#)
  - ▶ [New Professional Corporation \(PC\)](#)
- Annual Registration
  - ▶ [Annual Registration](#)
- Name Reservation
  - ▶ [File Name Reservation Online](#)
- Online Orders
  - ▶ [Register for Online Orders](#)
  - ▶ [Order Certificate of Existence](#)
  - ▶ [Order Certified Documents](#)

### View Filed

### Documents

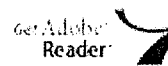
Date: 12/6/2007 (Annual Registration History etc.)

### File Annual Registration Online

or

### Print A Paper Annual Registration Form

**PLEASE NOTE:** To download your Annual Registration forms you will need Adobe Reader to view and/or print. If you do not have Adobe Reader installed on your computer, click the "Get Adobe Reader" button on the right to download the reader free of charge from the Adobe website.



### Business Name History

Name	Name Type
ENDU - LOGISTICS LLC	Current Name

### Limited Liability Company - Domestic - Information

Control No.:	07013691
Status:	Active/Compliance
Entity Creation Date:	2/15/2007
Jurisdiction:	GA
Principal Office Address:	PO box 1540 Cartersville GA 30120

Last Annual Registration  
Filed Date:

Last Annual Registration  
Filed:

### Registered Agent

Agent Name:	Samplis, Michael
Office Address:	55 Zena drive Cartersville GA 30121
Agent County:	Bartow

### Organizers

Title:	Organizer
Name:	Michael Samples

**Address:** PO box 1540  
Cartersville GA 30120

**Title:** Organizer  
**Name:** Endurance LLC  
**Address:** 530 7th Ave  
Suite 903  
New York NY 10018

**Exhibit E: Shyang Ho demand letter**

B3081863.2



**FOLEY  
HOAG LLP**  
ATTORNEYS AT LAW

Colin J. Zick  
Boston Office  
617.832.1275  
czick@foleyhoag.com

October 30, 2007

.pdf File via E-Mail  
Certified Mail-Return Receipt Requested

Mr. Athanasios Nastos  
Endurance LLC  
530 Seventh Avenue, 9th Floor  
New York, NY 10010

Dear Mr. Nastos:

I have been retained by Shyang Ho Footwear Co., Ltd. ("Shyang Ho") to represent it in connection with outstanding obligations owed by Endurance LLC, d/b/a Fresh to Death, LLC ("Endurance") to Shyang Ho for footwear manufactured at the request of Endurance.

Since 2004, Shyango Ho has been supplying footwear to Endurance. That relationship worked well until late 2006, when Endurance fell behind in its payments to Shyango Ho. In particular, beginning on or about November 29, 2006, Shyang Ho repeatedly notified Endurance that its payments were "seriously delayed." Despite these notices (which are not contested by Endurance), significant outstanding obligations have accrued between Shyango Ho and Endurance. By April 2007, the outstanding balance had grown to over \$400,000. In response to Ms. Kimmy Liu's inquiries about this balance, you assured him that payment was forthcoming and that "[w]e are making arrangements with our bank" to effectuate that payment.

Over the months that followed Shyang Ho continued to supply footwear to Endurance, at the same time demanding payment for prior deliveries. Endurance continued to promise payment and proposed payment schedules, schedules that were not followed. By August 1, 2007, a balance of \$268,614.58 was outstanding, and a Robert Luo, of Endurance, promised "I try my best to arrange some [payment]." You, also, personally promised Ms. Liu that you would discuss the "clean-up" of these balances with your employees. Yet these balances remain.

As of today, there is outstanding \$268,614.58 due for orders shipped to Endurance, and an additional \$200,946.17 in debit notes. As such, a total of \$469,560.75 is owed by Endurance to Shyang Ho. These obligations are clear and unambiguous. The repeated unkept promises by you and other Endurance employees

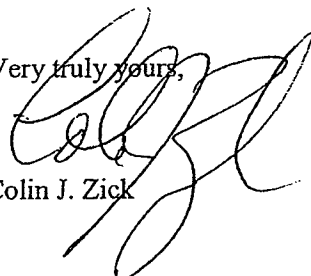
B3421067.3

Mr. Athanasios Nastos  
October 30, 2007  
Page 2

have had the effect of stringing Shyang Ho along in its business dealings with Endurance; such actions constitute unfair and deceptive practice by Endurance and you.

If payment in full of the outstanding amount of \$469,560.75 is not received by the close of business on Friday, November 2, 2007, Shyang Ho will feel free to avail itself of all the remedies available to under applicable law in order to collect the amounts due.

Very truly yours,

  
Colin J. Zick

cc: Ms. Kimmy Liu (by PDF file, via email)

**Exhibit F: Endurance response to demand letter**

B3081863.2

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**From:** Michael Deutsch [mailto:mjd@michaeldeutsch.net]  
**Sent:** Friday, November 02, 2007 4:22 PM  
**To:** Zick, Colin  
**Cc:** 'Tom Nastos'; redmont3@juno.com; redmont3@gmail.com  
**Subject:** Re: Shyang Ho Footwear Co., Ltd. v. Endurance

Dear Colin,

In accordance with our telephone conversation of this afternoon, I am actively reviewing all information forwarded in your letter dated October 30, 2007, in regard to the above captioned matter. As per our telephone discussion, Endurance and your client, Shyang Ho Footwear Co., Ltd. have been doing business for the last three years without any problems, and Endurance has paid all of its prior bills to your client in full. I mentioned to you in our conversation that there are specific quality control issues involving your client, and claims do exist, about product which was delivered by your client. Various footwear products produced by your client have been returned by the merchants to the Endurance Warehouse, and are available for inspection by your client, at your earliest convenience. The initial amount of the back-charged items, is in excess of \$160,000.00. In addition to the aforementioned, Endurance is completing an Audit in regards to all Stride Rite Factories which manufactured footwear on their behalf, and your client's operation is included in this "Master Audit."

It is Endurance's intention to pay all monies that are legitimately past due and owing to all factories in the very near future, but we can not be threatened in terms of unreasonable time constraints. I indicated to you that I would communicate with you again on November 7, 2007, and it is my intent to help resolve this unfortunate situation in an amicable fashion. I appreciate your client's patience, and I look forward to resolving all questions in the near future.

Please feel free to call the undersigned at (212) 697-6330, if I can be of any additional assistance. Please further note that our attorney is Ron Monterosso, who can be reached at (508) 627-7399. In the interim period, I am authorized by Tom Nastos to speak with you in a non-lawyer capacity, to help answer questions pertaining to this situation.

Please further note that this correspondence is sent without prejudice.

Very truly yours,

Michael J. Deutsch

MJD:gm



**Exhibit G: Sample purchase orders**

B3081863.2

FROM: FRESH TO DRATH LLC  
 PRO-KIDS  
 510 7TH AVE  
 NEW YORK, NY

(01)

00000

ORIG 9/29/06  
 REV DATE 9/29/06

Agent: 000000

Vendor: 000000

Shipping Mark:

Purchase Order  
 0000714

Factory/Marker: 000020  
 SHANG HO FOOTWEAR CO LTD  
 LIN-YU MANAGEMENT  
 DIST FEN-CHOU TOWN  
 NAN-HAI CITY GUANG DONG  
 PROVINCE CHINA 00000

Ship-to:

FTD c/o CJ Logistics  
 17 Empire Blvd  
 07506

Season: S/07 SPRING 2007

SHIP VIA: SHIP DATE: 12/13/06 EX COUNTRY: CHINA QUOTA CAT: FOB CONSOLIDATOR DATE: 12/13/06

Style Description  
 P1431 RFL COURT CLASSIC LEATHER  
 PROKIDS SHOES  
 Item Color Color Desc.

Fiber Content of Garment

PORT

Units FOB.PX	7	7.5	8	8.5	9	9.5	10	10.5	11	11.5
100 WHITE	4	24	28	30	46	50	54	36	32	8

\*\* SUGG RTL 65.00

\*\* SUGG RTL 65.00

\*\* SUGG RTL 65.00

\*\*CONTINUED\*\*

13/18

FROM: FRESH TO DEATH LLC  
 PRO-SEDS  
 530 7TH AVE  
 NEW YORK, NY

(01)

00000

ORIG 2/23/07  
 REV DATE 5/07/07

AGENTS: 000000

Shipping Mark:  
 Vendor: 000000

Factory/Maker: 000020  
 SHYANG HO FOOTWEAR CO LTD  
 LIN-YEU MANAGEMENT  
 DIST PIN-CHOU TOWN  
 NAN-HAI CNTRY GUANG DONG  
 PROVINCE CHINA 00000

Ship-to:  
 RD SIMPSON INC  
 55 ZENA DRIVE  
 CARTERSVILLE GA 30-121

Purchase Order  
 0001127

Season: F/07 FALL 2007

DELIVERY TERMS:

EX COUNTRY: CHINA

SHIP DATE: 5/23/07 QUOTA CAT:

FOR CONSOLIDATOR DATE: 5/23/07

SHIP MODE: B SHIP VIA:  
 Description  
 RM200 ROYAL COURT BOMB POP  
 FROKEDS

Fiber Content of Garment

PORT

Insm Color	Color Desc.	Units	FOB.PX	7	7.5	8	8.5	9	9.5	10	10.5	11	11.5
600	TRUE RED	1702		24	48	166	371	216	384	194	120	68	111
** SUGG RTL	75.00			12	13	14							

600 TRUE RED  
 \*\* SUGG RTL 75.00

114

108

7

11/3/08

1810+6

TOTAL UNITS 1816

SPECIAL INSTRUCTIONS: CONFIRMATION REQUIRED  
 DESTINATION: ATLANTA

PACKING INSTRUCTIONS:  
 PACK 12 SOLID SIZE

TOTAL.... : .00

User: ENDUSON

FROM: FRESH TO DEATH LLC  
 PRO-KEDS  
 530. 7TH AVE  
 NEW YORK, NY

(01)

00000

ORIG 10/24/06  
 REV DATE 10/24/06

AGENT: 000000

Vendor: 000000

Shipping Mark:

Purchase Order  
 0000807

Factory/Maker: 000020  
 SHIANG HO FOOTWEAR CO LTD  
 LIN-YEU MANAGEMENT  
 DIST PIN-CHOU TOWN  
 NAN-HAI CTRY GUANG DONG  
 PROVINCE CHINA 00000

Ship-to:

FTD c/o CJ Logistics  
 17 Empire Blvd  
 07606

Season: S/07 SPRING 2007

TERMS: SHIP VIA: SHIP DATE: 1/17/06 EX COUNTRY: CHINA QUOTA CAT: FOB CONSOLIDATOR DATE: 1/17/06

Style PM1397 Description ROYAL COURT NON & LATER PROKEDS SHOES

Fiber Content of Garment

PORT

Insm Color Color Desc. Units FOB.PX 12 13 14

309 JELLY BEAN 118 .00 66 46 6  
 \*\* SUGG RTL 65.00 4

TOTAL UNITS 1200

SPECIAL INSTRUCTIONS: CONFIRMATION REQUIRED

PACKING INSTRUCTIONS:  
 PACK 12 SOLID SIZE/COLOR  
 DESTINATION: NEW YORK

.00

User: ENDUSON .00

FROM: FRESH TO DEATH LLC  
 PRO-REDS  
 530 7TH AVE  
 NEW YORK, NY

(01)

00000

ORIG 10/24/06  
 REV DATE 10/24/06

Agent: 000000

Vendor: 000000

Shipping Mark:

PRO-REDS

Purchase Order  
 0000807

Factory/Maker: 000020  
 SHYANG HO FOOTWEAR CO LTD  
 LIN-YEU MANAGEMENT  
 DIST PIN-CHOU TOWN  
 NAN-HAI CNTRY GUANG DONG  
 PROVINCE CHINA 00000

Ship-to:  
 FTD c/o CJ Logistics  
 17 Empire Blvd  
 07606

Season: S/07 SPRING 2007

TERMS: SHIP VIA: EX COUNTRY: QUOTA CAT: FOB CONSOLIDATOR DATE: 1/17/06  
 SHIP DATE: 1/17/06 CHINA

Style Description  
 PM1397 ROYAL COURT NOM & LATER  
 PROXEDS SHOES

Fiber Content of Garment

PORT

Insm Color	Color Desc.	Units	FOB.PX	7	7.5	8	8.5	9	9.5	10	10.5	11	11.5
475	BACHELOR	482		5	14	32	44	58	68	76	74	73	38
**	SUGG RTL	65.00		12	13	14							

475 BACHELOR  
 118  
 \*\* SUGG RTL 65.00

7	7.5	8	8.5	9	9.5	10	10.5	11	11.5
---	-----	---	-----	---	-----	----	------	----	------

109 JELLY BEAN  
 482 .00  
 \*\* SUGG RTL 65.00

5	14	32	44	58	68	76	74	73	38
4	4	4	4	4	4	4	4	4	4
54	64	64	64	64	64	64	64	64	64

\*\*CONTINUE\*\*

2/2

FROM: FRESH TO DEATH LLC  
 PRO-KEDS  
 530 7TH AVE  
 NEW YORK, NY

(01)

00000

Purchase Order  
 0000806

ORIG 10/24/06  
 REV DATE 10/24/06

Agent: 000000

Shipping Mark:  
 Vendor: 000000

Factory/Make: 000020  
 SHYANG HO FOOTWEAR CO LTD  
 LIN-YEU MANAGEMENT  
 DIST PIN-CHOU TOWN  
 NAN-HAI CTRY GUANG DONG  
 PROVINCE CHINA 00000

Ship-to:  
 FTD c/o CU Logistics  
 17 Empire Blvd  
 07606

Season: S/07 SPRING 2007

TERMS: SHIP VIA: SHIP DATE: 1/17/06 EX COUNTRY: CHINA QUOTA CAT: FOB CONSOLIDATOR DATE: 1/17/06

Style  
 PW1434  
 Description  
 142ND HEANTOWN BEANS  
 PROKEDS SHOES

Fiber Content of Garment

PORT

Units FOB EX 7 7.5 8 8.5 9 9.5 10 10.5 11 11.5

641 MAROON  
 \*\* SUGG RYL 65.00

963 2.4

8

30

62

86

115

136

156

148

146

76

12 13 14

11

4

4

4

4

641 MAROON  
 \*\* SUGG RYL 65.00

237

132

91

14

4

4

4

4

4

TOTAL UNITS 1200  
 SPECIAL INSTRUCTIONS: CONFIRMATION REQUIRED

PACKING INSTRUCTIONS:  
 PACK 12 SOLID SIZE/COLOR  
 DESTINATION: NEW YORK

.00

User: ENDUSON

From: FRESH TO DEATH LLC  
 PRO-KEDS  
 530 7TH AVE  
 NEW YORK, NY

(01)

00000

Purchase Order  
 0000805

ORIG 10/24/06  
 REV DATE 10/24/06

Agent: 000000

Vendor: 000000

Shipping Mark:

Factory/Make: 000020 Ship-to:  
 SHYANG HO FOOTWEAR CO LTD FTD c/o CJ Logistics  
 LIN-YEU MANAGEMENT 17 Empire Blvd  
 DIST PIN-CHOU TOWN 07606  
 NAN-HAI CTRTY GUANG DONG  
 PROVINCE CHINA 00000

Season: S/D7 SPRING 2007

TERMS: SHIP VIA: EX COUNTRY: QUOTA CAT: FOB CONSOLIDATOR DATE: 1/17/06  
 SHIP DATE: 1/17/06 CHINA  
 Description: Fiber Content of Garment PORT  
 RM1336 ROYAL COURT LEMONHEADS  
 PROKEDS SHOES

Insta Color	Color Desc.	Units FOB.FX	7	7.5	8	8.5	9	9.5	10	10.5	11	11.5
733	DANDELION	1205	12	36	78	109	148	172	190	186	182	92
**	SUGG RETL 70.00		12	13	14	14	14	168			178	
733	DANDELION	295	165	114	16							
**	SUGG RETL 70.00											

TOTAL UNITS 1500

SPECIAL INSTRUCTIONS: CONFIRMATION REQUIRED

PACKING INSTRUCTIONS:  
 PACK 12 SOLID SIZE/COLOR  
 DESTINATION: NEW YORK

.00

User: ERDUSON

FROM: FRESH TO BEATH LLC  
 PRO-KEDS  
 530 7TH AVE  
 NEW YORK, NY

(01)

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Purchase Order:  
 0000747

ORIG 10/04/06  
 REV DATE 12/27/06

Agent: 000000 Shipping Mark:  
 Vendor: 000000

Factory/Make: 000020 Ship-to:  
 SHANG HO FOOTWEAR CO LTD FWD c/o CJ Logistics  
 LIN-YEU MANAGEMENT 17 Empire Blvd  
 DIST PIN-CHOU-TOWN S HACKENSACK 07406  
 HAN-HAI CNTRY GUANG DONG  
 PROVINCE CHINA 00000

Season: S/07 SPRING 2007

TERMS: SHIP VIA: SHIP DATE: 1/03/07 EX COUNTRY: CHINA QUOTA CAT: FOB CONSOLIDATOR DATE: 1/03/07

Style Description  
 PM1466 ROYAL COURT TOOTSIE  
 PROKEDS SHOES

Insr Color	Color Desc.	Units FOB.PX	7	7.5	8	8.5	9	9.5	10	10.5	11	11.5
205	DARK BROWN	3316		60	180	108	300	300	444	372	444	108
**	SUGG RTL 65.00											
209	DARK BROWN	504										
**	SUGG RTL 65.00											
			12	13	14							

1/3 1846/

1/3

TOTAL UNITS 2820

SPECIAL INSTRUCTIONS: CONFIRMATION REQUIRED  
 FINISH LINE PO: 11509291  
 CARTON & SHOE BOX LABELS

PACKING INSTRUCTIONS:  
 DIRECT SHIP: INDIANAPOLIS  
 INDIANA

.00

PAGE: TWENTY



FROM: BUSH TO DEATH LLC

(01)

200-REDS  
510 7TH AVE  
NEW YORK, NY

00000

Purchase Order  
0000745UNLS 10/04/06  
REV DATE 12/27/06

AGENCY 000000

Vendor: 000000 Shipping Mark:

Factory/Make: 000000  
SHYANG HO FOOTWEAR CO LTD  
LIN YEU MANAGEMENT  
DIST FAN-CHOU TOWN  
NAN-HAI CNTRY GUANG DONG  
PROVINCE CHINA 00000

Ship-to:

FTD O/O CJ LOGISTICS  
17 Empire Blvd  
S HACKENSACK 07606

Season: S/C7 SPRING 2007

TERMS: SHIP VIA: EX COUNTRY: QUOTA CNT: FOB CONSOLIDATOR DATE: 1/03/07  
SHIP DATE: 1/03/07  
CHINADescription:  
ROYAL COURT ROCK N POP  
PROKIDS SHOES

Fiber Content: of Garment

PORT

Insm Color Color Desc. Units FOB.PX 7 7.5 8 8.5 9 9.5 10 10.5 11 11.5

001 BLACK 2316 65.00

002 BLACK 504 200 204

003 BLACK 504 200 204

004 BLACK 504 200 204

10/28/07

4/5

TOTAL UNITS 2820

SPECIAL INSTRUCTIONS: CONFIRMATION REQUIRED  
FINISHING PO: 11509285  
CARTON & SHOE BOX REQPACKING INSTRUCTIONS:  
DIRECT SHIP: INDIANAPOLIS  
INDIANA

User: EMILSON

FROM: FRESH TO DEATH LLC  
 PRO-KIDS  
 510 7TH AVE  
 NEW YORK, NY

(01)

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ORIG 10/04/05  
 REV DATE 12/27/05

Agency 000000

VENDOR: 000000 Shipping Mark:

\*\*CONTINUE\*\*

Purchase Order:  
 0000744

Factory/Make: 000020 Ship-to:  
 SHYANG HO FOOTWEAR CO LTD LTD c/o CJ Logistics  
 LIN-YEU MANAGEMENT 17 Empire Blvd  
 DIST PIN-CHOU TOWN S HACKENSACK 07606  
 NAN-HAI CTRY GUANG DONG  
 PROVINCE CHINA 00000

Season: 3/07 SPRING 2007

QUOTA CAT: FOB CONSOLIDATOR DATE: 1/03/07

EX COUNTRY:  
 CHINA

SHIP DATE: 1/03/07

SHIP VIA:

Style Description  
 EX1407 ROYAL COURT SKIDDELES  
 PROKIDS SHOES

Fiber Content of Garment

PORT

Instn Color Color Desc. Units FOB EX 12 13 14

424 PASHION BLUE 360 216 144  
 \*\* SUBC REL 65.00

10/28/07

3/5

TOTAL UNITS 3636  
 SPECIAL INSTRUCTIONS: CONFIRMATION REQUIRED  
 2 FINISH LINE PO'S  
 SEON & CARTON LABELS REQ

PACKING INSTRUCTIONS:  
 DESTINATION: INDIANAPOLIS  
 INDIANA

.03

User: ENDESON

FROM: FRESH TO DEATH LLC  
 PRO-KIDS  
 510 7TH AVE  
 NEW YORK, NY

00000

ORIG 10/04/06  
 REV DATE 12/27/06

AGENCY: 000000

Shipping Mark:  
 Vendor: 000000

Purchase Order  
 000074

Factory/Maker: 000020  
 SHYANG HO FOOTWEAR CO LTD  
 LIN-YEU MANAGEMENT  
 DIST PIN-CHOU TOWN  
 NAN-HAI CTRY GUANG DONG  
 PROVINCE CHINA 00000

Ship-to:

FTD c/o CJ Logistics  
 17 Empire Blvd  
 S HACKENSACK 07606

Season: S/07 SPRING 2007

TERMS: SHIP VIA: SHIP DATE: 1/03/07 EX COUNTRY: CHINA QUOTA CAT: FOB CONSOLIDATOR DATE: 1/03/07

STYLE: DESCRIBER: ROYAL COURT SKIDDLES  
 2W1407 PROXEDS SHOES

Fiber Content of Garment

PORT

Item Color Color Desc. Units FOB EX 7 7.5 8 8.5 9 9.5 10 10.5 11 11.5

424 PASSION BLUE 1368 180 60 204 60 300 204 300 60

\*\* SUGG RTL 65.00

12 13 14

424 PASSION BLUE 432 252 180

\*\* SUGG RTL 65.00

7 7.5 8 8.5 9 9.5 10 10.5 11 11.5

424 PASSION BLUE 1476 120 168 168 180 228 240 228 144

\*\* SUGG RTL 65.00

\*\*CONTINUED\*\*

10320-1/2

2/5

FROM: FRESH TO DEATH LLC  
 PRO-KIDS  
 510 7TH AVZ  
 NEW YORK, NY

(01)

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ORIG 10/03/06  
 REV DATE 12/27/06

AMOUNT 000000

Vendor: 000000

Shipping Mark:

To: Maggie Apple 070-8611817  
 PM: SHC K444

Purchase Order  
 0000742

Factory/Make: 000020 Ship-to:  
 SHANG HO FOOTWEAR CO LTD  
 LIN-YEC MANAGEMENT  
 DIST PIN-CHOU TOWN  
 NAN-HAI CNTRY GUANG DONG  
 PROVINCE CHINA 00000

Season: 8/07 SPRING 2007

TERMS: SHIP VIA: EX COUNTRY: QUOTA CAT: FOB CONSOLIDATOR DATE: 1/03/07  
 CHINA

SHIP DATE: 1/03/07  
 DESCRIPTION: ROYAL COURT SOUR PATCH A/O  
 PROKIDS SHOES

Riber Content of Garment

PORT

Item Color	Color Desc.	Units FOB EX	7	7.5	8	8.5	9	9.5	10	10.5	11	11.5
800	ORANGE	1368										
800	STUD RFL	70.00										
400	ORANGE	412										
400	STUD RFL	70.00										

800 ORANGE 1368

800 STUD RFL 70.00

400 ORANGE 412

400 STUD RFL 70.00

Maggie:

11/11/07

客人接受 11/11/07

1/5

TOTAL UNITS 1900  
 SPECIAL INSTRUCTIONS: CONFIRMATION REQUIRED  
 DIRECT SHIP: INDIANAPOLIS  
 INDIANA

PACKING INSTRUCTIONS:  
 FINISH LINE PO: 11509627  
 CARTON LABELS REQ

User: ENDUSON

From: FRESH TO DEATH LLC  
 PRO-KEDS ROCCWEAR  
 530 7TH AVE  
 NEW YORK, NY 00000

(02)

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ORIG 10/04/06  
 REV DATE 10/20/06

Agent: 000000

Vendor: 000000

Shipping Mark:

To: Maggie / Apple

020-86719817

Purchase Order  
0000751

Factory/Make: 000020  
 SHIANG HO FOOTWEAR CO LTD  
 LIN-YEI MANAGEMENT  
 DIST PIN-CHOU TOWN  
 NAN-HAI CNTRY GIANG BONG  
 PROVINCE CHINA 00000

Ship-to:

FTD c/o CJ Logistics  
 17 Empire Blvd  
 07506

Season: S/07 SPRING 2007

TERMS: SHIP VIA: SHIP DATE: 12/27/06  
 Description: ROYAL COURT OCEAN SMU  
 ROCCWEAR FOOTWEAR  
 Color Desc. Units FOB PX

Style RM1548  
 INST Color

Fiber Content of Garment

PORT

7 7.5 8 8.5 9 9.5 10 10.5 11 11.5

800 TRUE ORANGE 1800 .00 204 312 264 312 312 396  
 \*\* SUGG RTL 70.00

800 TRUE ORANGE 396 .00 300 96  
 \*\* SUGG RTL 70.00

Dear Apple:

鞋体名称修改!

//

TOTAL UNITS 2196

SPECIAL INSTRUCTIONS: CONFIRMATION REQUIRED  
 DEMO PO: 0000140195  
 CARTON & SHOE BOX LABELS  
 REQUIRED

PACKING INSTRUCTIONS:  
 DIRECT SHIP: ANAHEIM  
 CALIFORNIA

.00

User: ENDUSON .00

FROM: FRESH TO DEATH LLC  
 PRO-KEDS ROCKWEAR  
 530 7TH AVE  
 NEW YORK, NY 00000

(02)

\*\*CONTINUED\*\*

Purchase Order  
 0000723

ORIG 9/29/06  
 REV DATE 10/30/06

Shipping Mark:

Agent: 000000

Vendor: 000000

Factory/Make: 000020  
 SHYANG HO FOOTWEAR CO LTD  
 LIN-YEU MANAGEMENT  
 DIST PIN-CHOU TOWN  
 NAN-HAI CNTRY GUANG DONG  
 PROVINCE CHINA 00000

Ship-to:

FTD c/o CJ Logistics  
 17 Empire Blvd  
 07606

Season: S/07 SPRING 2007

TERMS:

SHIP VIA:

SHIP DATE: 12/20/06

Style Description

ROYAL COURT COLOR BLOCK

ROCKWEAR FOOTWEAR

Insm Color Color Desc.

Units FOB.PX 10 11

EX COUNTRY:

CHINA

QUOTA CAT: FOB CONSOLIDATOR DATE: 12/20/06

Fiber Content of Garment

PORT

\*\* 020 SOLID GREY 13  
 SUGG RTL 70.00

9 4

TOTAL UNITS 600

SPECIAL INSTRUCTIONS: CONFIRMATION REQUIRED  
 PORT ENTRY: NEW YORK

PACKING INSTRUCTIONS:  
 12 PACK SOLID SIZE/COLOR  
 TERMS: L/C

.00

User: ENDUSON

2/2

FROM: FRESH TO DEATH LLC  
 PRO-KEDS ROCCWEAR  
 530 7TH AVE  
 NEW YORK, NY

(02)

00000

DATE 9/29/06  
 REV DATE 10/30/06

Vendor: 000000  
 Shipping Mark:

Agent: 000000

To: Maggie/bppe

020-96719817

0000723  
 0000723

Factory/Maker: 000020  
 SHYANG HO FOOTWEAR CO LTD  
 LIN-YEU MANAGEMENT  
 DIST PIN-CHOU TOWN  
 NAN-HAI CNTRY GUANG DONG  
 PROVINCE CHINA 00000

Ship-to:  
 FTD C/O CJ Logistics  
 17 Empire Blvd  
 07606

Season: 8/07 SPRING 2007

QUOTA CAT: FOB CONSOLIDATOR DATE: 12/20/06

EX COUNTRY:  
CHINASHIP VIA:  
SHIP DATE: 12/20/06

Style	Description	Fiber Content of Garment	PORT
AW224	ROYAL COURT COLOR BLOCK ROCCWEAR FOOTWEAR		
Insm Color	Color Desc.	Units FOB PX	

001	BLACK	424	9	12	32	42	56	58	72	58	60	26
** SUGG RPL	70.00		10	11								

001	BLACK	56	40	16								
** SUGG RPL	70.00											

020	SOLID GREY	107	2	4	8	10	12	16	17	16	14	8
** SUGG RPL	70.00											

Dear Maggie:

数量有调整, 请在材料情况. TKS! 交其处理.

1/2

\*\*CONTINUE\*\*

FROM: FRESH TO DENTH LLC  
 PRO-KEDS  
 530 7TH AVE  
 NEW YORK, NY

(01)

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\*\*CONTINUE\*\*

Purchase Order  
 0000721

ORIG 9/29/06  
 REV DATE 10/18/06

Shipping Mark:  
 Vendor: 000000

Agent: 000000

Factory/Vaker: 000020  
 SHYANG HO FOOTWEAR CO LTD  
 LIN-YEU MANAGEMENT  
 DIST PIN-CHOU TOWN  
 NAN-HAI CNTRY GUANG DONG  
 PROVINCE CHINA 00000

Ship-to:

FTD c/o CJ Logistics  
 17 Empire Blvd  
 07606

Season: 3/07 SPRING 2007

QUOTA CAT: FOB CONSOLIDATOR DATE: 12/20/06

SHIP VIA:  
 SHIP DATE: 12/20/06  
 EX COUNTRY:  
 CHINA

TERMS:  
 Style  
 Description  
 PW2203  
 ROYAL COURT CANDY PRINT  
 PROKEDS SHOES

Fiber Content of Garment

Unita FOB PX 10 11

676 CANDY PINK  
 \*\* SUGG RTL 48.75

172 12.70 126 46

725 BANANA CREAM  
 \*\* SUGG RTL 48.75

424 12.70 8 12 32 42 56 58 72 58 60 26

725 BANANA CREAM  
 \*\* SUGG RTL 48.75

56 12.70 40 16

TOTAL UNITS 3440  
 SPECIAL INSTRUCTIONS: CONFIRMATION REQUIRED  
 PORT ENTRY: NEW YORK

PACKING INSTRUCTIONS:  
 PACK 12 SOLID SIZE/COLOR  
 TERMS: L/C

.00

43688.00  
 User: ENDUSON

2/3



From: FRESH TO DEATH LLC  
 PRO-KEDS  
 530 7TH AVE  
 NEW YORK, NY

(01)

00000

ORIG 9/29/06  
 REV DATE 10/18/06

Agent: 000000

Shipping Mark:  
 Vendor: 000000

20-86719817

Factory/Maker: 000020  
 SHIYANG HO FOOTWEAR CO LTD  
 LIN-YEU MANAGEMENT  
 DIST PIN-CHOU TOWN  
 NAN-HAI CNTRY GUANG DONG  
 PROVINCE CHINA 00000

Ship-to:  
 PTD c/o CJ Logistics  
 17 Empire Blvd  
 07606

Season: S/07 SPRING 2007

TERMS: SHIP VIA: SHIP DATE: 12/20/06 EX COUNTRY: CHINA QUOTA CAT: FOB CONSOLIDATOR DATE: 12/20/06

Style: Description: ROYAL COURT CANDY PRINT PROKEDS SHOES  
 Insm Color Color Desc. Units FOB.PX 5 5.5 6 6.5 7 7.5 8 8.5 9 9.5

001 BLACK 1308 12.70 16 28 96 128 180 190 218 158 184 110

001 BLACK 172 12.70 126 46

676 CANDY PINK 1308 12.70 16 28 96 128 180 190 218 158 184 110

156

Dear Apple:

#001 #676 两色各增加1000 PPS, 请确认  
 交期不变. TKS!

\*\*CONTINUE\*\*

1/3

FROM: FRESH TO DEATH LLC  
 PRO KIDS  
 530 7TH AVE  
 NEW YORK, NY

(01)

00000

ORIG 4/29/06  
 REV DATE 11/27/06

Agent: 000000

Shipping Mark:  
 Vendor: 000000

Purchase Order  
 0000720

Factory/Maker: 000020  
 SHYANG HO FOOTWEAR CO LTD  
 LIN-YEC MANAGEMENT  
 DIST PTN-CHOU TOWN  
 NAN-HAI CTRY GUANG DONG  
 PROVINCE CHINA 00000

Ship-to:

FTD c/o CJ Logistics  
 17 Empire Blvd  
 S HACKENSACK 07606

Season: S/07 SPRING 2007

SHIP VIA: SHIP DATE: 12/20/06  
 EX COUNTRY: CHINA  
 QUOTA CAT: FOB CONSOLIDATOR DATE: 12/20/06

TERMS:

Style Description  
 PML400 ROYAL COURT BUBBLE POPS  
 PROXEDS SHOES  
 Item Color Color Desc.

Fiber Content of Garment

PORT

Units FOB EX 12 13 14

312 FERM 295  
 \*\* SJGS RTL 70.00

168 85 42

7 7.5 8 8.5 9 9.5 10 10.5 11 11.5

500 PURPLE 398  
 \*\* SJGS RTL 70.00

7 17 30 42

12 13 14 15 16 17 18 19 20

500 PURPLE 32  
 \*\* SJGS RTL 70.00

51 25 6

12 13 14 15 16 17 18 19 20

TOTAL UNITS 4730

SPECIAL INSTRUCTIONS: CONFIRMATION REQUIRED  
 PORT ENTRY: NEW YORK

PACKING INSTRUCTIONS:  
 PACK 12 SQUID SIZE COLOR

.00

User: ENDUSON

3/3

FROM: FRESH TO DEATH LLC  
 PRO-KEDS  
 530 7TH AVE  
 NEW YORK, NY

(01)

00000

Purchase Order  
 0000720

ORIG 9/29/06  
 REV DATE 11/27/06

Agent: 000000

Vendor: 000000

Shipping Mark:

Factory/Maker: 000020  
 SHYANG HO FOOTWEAR CO LTD  
 LIN-YEU MANAGEMENT  
 DIST PTN-CHOU TOWN  
 NAN-HAI CENTRY GUANG DONG  
 PROVINCE CHINA 00000

Ship-to:

PTD c/o CJ Logistics  
 17 Empire Blvd  
 S HACKENSACK 07606

Season: S/07 SPRING 2007

TERMS: SHIP VIA: EX COUNTRY: QUOTA CAT: FOB CONSOLIDATOR DATE: 12/20/06  
 CHINA

SHIP DATE: 12/20/06  
 DESCRIPTION  
 ROYAL COURT BUBBLE POFS  
 PROKEDS SHOES

Fiber Content of Garment

PORT

Instr Color	Color Desc.	Units	FOB PX	7	7.5	8	8.5	9	9.5	10	10.5	11	11.5
600	TRUE RED	2146		12	94	154	216	356	326	370	292	274	52
**	SUGG RTL 70.00			12	13	14		352	328			270	
600	TRUE RED	354		220	94	40							
**	SUGG RTL 70.00			220	210								
212	KERM	1505		18	50	96	144	238	201	236	218	212	92
**	SUGG RTL 70.00			18	7.5	8	8.5	9	9.5	10	10.5	11	11.5

Dew Mangle:

100份

三个西之各SIZE调整: #600 增加100PKS (总数量)

#312 总数量不变

#500 总数量不变

\*\*CONTINUE\*\*

2/3

FROM: FRESH TO DEATH LLC  
 PRO-KIDS  
 530 7TH AVE  
 NEW YORK, NY

(01)

00000

ORIG 9/25/06  
 REV DATE 11/27/06

Shipping Mark:  
 Vendor: 000000

AGENTS: 000000

To: Apple / Maggie

20-86719817

Purchase Order  
 0000719

Factory/Make: 000020  
 SHYANG HO FOOTWEAR CO LTD  
 LIN-YEU MANAGEMENT  
 DIST PIN-CHOU TOWN  
 NAN-HAI CHTRY GUANG DONG  
 PROVINCE CHINA 00000

Ship-to:

FTD c/o CJ Logistics  
 17 Empire Blvd  
 S HACKENSACK 07606

Season: S/07 SPRING 2007

QUOTA CAT: FOB CONSOLIDATOR DATE: 12/20/06  
 EX COUNTRY: CHINA

SHIP VIA:  
 SHIP DATE: 12/20/06

Style  
 Description:  
 EM1407  
 ROYAL COURT SKIDDLERS  
 PROCKED SHOES

Fiber Content of Garment

PORT

Innm Color	Color Desc.	Units	FOB.PX	7	7.5	8	8.5	9	9.5	10	10.5	11	11.5
424	PASSION BLUE	2097	12.12	22	112	164	214	346	318	334	254	248	85
**	SUGG RTL	65.00											
424	PASSION BLUE	303	12.12	194	68	41							
**	SUGG RTL	65.00											

修改份!

Dear Maggie:

Size 明細調整, 总数量不变!

1/3

TOTAL UNITS 2400

SPECIAL INSTRUCTIONS: CONFIRMATION REQUIRED  
 PORT ENTRY: NEW YORK

PACKING INSTRUCTIONS:  
 PACK 12 SOLID SIZE/COLOR  
 TERMS: L/C

.00

User: ENDUSON

From: FRESH TO DEATH LLC  
 PRO-KEDS (01)  
 530 7TH AVE  
 NEW YORK, NY 00000

Purchase Order  
 0000718

ORIG 9/29/06  
 REV DATE 9/29/06

Shipping Mark:  
 Vendor: 000000

Agent: 000000

Factory/Make: 000020 Ship-to:  
 SHANG HO FOOTWEAR CO LTD FTD c/o CJ Logistics  
 LIN-YU MANAGEMENT 17 Empire Blvd  
 DIST PIN-CHOU TOWN 07806  
 NAN-HAI CNTRY GUANG DONG  
 PROVINCE CHINA 00000

Season: S/07 SPRING 2007

TERMS: SHIP VIA: SHIP DATE: 12/20/06 EX COUNTRY: QUOTA CAT: FOB CONSOLIDATOR DATE: 12/20/06  
 CHINA

Description  
 142ND SKIDDLRS  
 PROKEDS SHOES

Insm Color	Color Desc.	Units FOB.FX	7	7.5	8	8.5	9	9.5	10	10.5	11	11.5
800	ORANGE	578	.00	8	16	38	52	69	82	90	98	45
**	SUGG RTL	65.00										

800	ORANGE	142	.00	79	55	8						
**	SUGG RTL	65.00										

TOTAL UNITS 720  
 SPECIAL INSTRUCTIONS: CONFIRMATION REQUIRED  
 PORT ENTRY: NEW YORK

PACKING INSTRUCTIONS:  
 PACK 12S OR 12A  
 TERMS: L/C

.00

.00

USER: ENDUSON

9/18

From: FRESH TO DEATH LLC  
 PRO-KEDS  
 530 7TH AVE  
 NEW YORK, NY

(01)

00000

Purchase Order  
 0000717

ORIG 9/29/06  
 REV DATE 9/29/06

Shipping Mark:

Agent: 000000

Vendor: 000000

Factory/Make: 000020  
 SHYANG HO FOOTWEAR CO LTD  
 LIN-YEU MANAGEMENT  
 DIST PIN-CHOU TOWN  
 NAN-HAI CNTRY GUANG DONG  
 PROVINCE CHINA 00000

Ship-to:

FTD c/o CJ Logistics  
 17 Empire Blvd  
 07606

Season: S/07 SPRING 2007

QUOTA CAT: FOB CONSOLIDATOR DATE: 12/20/06

EX COUNTRY:

CHINA

SHIP VIA:

SHIP DATE: 12/20/06

100% Royal (new) Super Kid.

Style  
 FW1395

Description  
 ROYAL COURT FOUR PATCH

PROKEDS SHOES

Insm Color Color Desc.

Fiber Content of Garment

PORT

Units	FOR PX	7	7.5	8	9.5	9	10	10.5	11	11.5
1444	.00	18	45	93	131	173	201	228	219	113
356	.00	198	137	21						

\*\* 309 JELLY BEAN  
 SUGG RTL 70.00

\*\* 309 JELLY BEAN  
 SUGG RTL 70.00

TOTAL UNITS 1800

SPECIAL INSTRUCTIONS: CONFIRMATION REQUIRED  
 FORT ENTRY: NEW YORK

PACKING INSTRUCTIONS:  
 PACK 12S OR 12A  
 TERMS: L/C

.00

User: ENDUSON  
 .00

10/18

FROM: FRESH TO DEATH LLC  
 P&O-KELS  
 530 7TH AVE  
 NEW YORK, NY

(01)

00000

Purchase Order  
 0000716

ORIG 2/29/06  
 REV DATE 9/29/06

Agent: 000000

Vendor: 000000  
 Shipping Mark:

Factory/Maker: 000020  
 SHYANG HO FOOTWEAR CO LTD  
 LIN-YEU MANAGEMENT  
 DIST PIN-CHOU TOWN  
 NAN-HAI CNTRY GUANG DONG  
 PROVINCE CHINA 00000

Ship-to:

FTD C/O CJ Logistics  
 17 Empire Blvd  
 07606

Season: 5/07 SPRING 2007

EX COUNTRY: QUOTA CAT: FOB CONSOLIDATOR DATE: 12/20/06  
 CHINA

SHIP VIA:

SHIP DATE: 12/20/06

Description: *7 1/2" High sole*

ROYALCOURT SUEK PATCH A/O  
 PROKERS SHOES

Style: PW1394

Fiber Content of Garment

PORT

Insm Color	Color Desc.	Units	FOB, FX	7	7.5	8	8.2	9	9.5	10	10.5	11	11.5
800	ORANGE	1444	.00	18	45	93	131	173	201	220	223	219	113
**	SUGG RETL	70.00		12	22	14		14	97				

800 ORANGE 356 .00 198 137 21

\*\* SUGG RETL 70.00

TOTAL UNITS 1800  
 SPECIAL INSTRUCTIONS: CONFIRMATION REQUIRED  
 PORT ENTRY: NEW YORK

PACKING INSTRUCTIONS:  
 PACK 12S OR 12R  
 TERMS: L/C

.00

.00

User: ENDUSON

11/18

FROM: FRESH TO SEAT LLC  
 PRC-REDS  
 510 7TH AVE  
 NEW YORK, NY

(01)

00000

ORIG 9/29/06  
 REV DATE 11/06/06

AMNH 00000

Shipping Mark:  
 Vendor: 00000

Factory/Make: 00020  
 SHYANG HO FOOTWEAR CO LTD  
 LIN-YEU MANAGEMENT  
 DIST PIN-CHU TOWN  
 NAN-HAI CENTRY GUANG DONG  
 PROVINCE CHINA 00000

Ship-to:  
 FTD c/o CJ Logistics  
 17 Empire Blvd  
 07000

Season: 8/07 SPRING 2007

THRU: SHIP VIA: EX COUNTRY: QUOTA CAT: FCE CONSOLIDATOR DATE: 12/20/06  
 CHINA

Style: SHIP DATE: 12/20/06  
 Description: ROYAL COURT SADDLES A/O  
 PROKEDS SHOES

Fiber Content of Garment

PORT

Indm Color	Color Desc.	Units	FOB PX	7	1.5	4	8.5	9	9.5	10	10.5	11	11.5
312	KERM	1458	.00	18	44	112	136	174	206	229	216	212	112
**	SQGG KTL	65.00		12	13	14							

412 KERM  
 SQGG KTL 65.00

342 .00 176 124 42  
 U (172)

3/5  
 11/26/07

TOTAL UNITS 1800

SPECIAL INSTRUCTIONS: CONFIRMATION REQUIRED  
 PORT ENTRY: NEW YORK

PACKING INSTRUCTIONS:  
 PACK 125 OR 12A  
 TERMS: L/C

00

User: ENDUSON .00



FROM: FRESH TO DEATH LLC  
PRO-KIDS  
530 7TH AVE  
NEW YORK, NY

(10)

**70000**

REV	DATE	ORIG
9/29/06		
9/29/06		

Page: 000000

Vendor: 00000  
Shipping Mark:

**\* \* \* COUNTRY \* \***

Purchase Order  
0000774

Factory/Make: 000020  
SHANG HAI FOOTWEAR CO LTD  
LIN-YU MANAGEMENT  
DIST P.N.-THOU TOWN  
NAN-HAI ENTRY GUANG DONG  
PROVINCE CHINA 00000

Ship-to:  
FTD c/o CY Logistics  
17 Empire Blvd  
07605

Search: 9/07 SPRING 2007

QUOTA CAT: FOR CONSOLIDATOR DATE: 12/13/06

SHIP VIA: 13/23/05  
SHIP DATE: 13/23/05

Style	Description	Unit Price	Unit Color	Color Desc.	Unit Price
FW1411	RYL COURT CLASSIC LEATHER PROCKETS SHOES	137.13/08			

Fiber Content of Garment

Unita 202, PX 13 14

118 WINDY/TAME RD  
SUGG RTL 65.00 48

7	7.5	6	8.5	9	9.5	10	10.5	11	11.5
---	-----	---	-----	---	-----	----	------	----	------

113	WHITE/GREEN	312
SUGG REL	\$5.00	

113 WHITE/GREEN  
SUGG RTL 65.00

TOTAL UNITS 1,030  
SPECIAL INSTRUCTIONS: CONFIRMATION REQUIRED  
PORT ENTRY, NEW YORK

PACKING INSTRUCTIONS:  
PACK 12S OR 12A  
TERMS: L/C

**Wort : Rosen**

66

1418

**Exhibit H: E-mail regarding bank payment arrangements**

B3081863.2

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**From:** (SH-H10) Paul Tseng  
**Sent:** Wednesday, May 09, 2007 7:53 PM  
**To:** (SH-H40) Kimmy Liu  
**Subject:** FW: Pro-Keds Outstanding Statement  
**Follow Up Flag:** «Y³B²z  
**Flag Status:** Red

Fyi

---

**From:** Tom Nastos [mailto:tom.nastos@endurance1914.com]  
**Sent:** Wednesday, May 09, 2007 10:01 PM  
**To:** Paul@shyangho.com.tw  
**Subject:** RE: Pro-Keds Outstanding Statement

Paul ,

Re : Business

It seems that the business enviroment right now is difficult. The stores selling for all footwear and apparel is slow. Very few things are doing well. Air Force One , Adidas Shell toe doing ok. Van style footwear also ok. Our brand still doing well. In general we are doing better than the overall market , but retailers are concerned with the inventory.

Re : July

Will advise shortly. We are currently meeting with Finish Line and Genesco.

Re : Wire Transfer

I will check and advise. I think it's about 400k. Robert dad is very sick and he left for Wuxi on Sunday night. Working with our finance dept and will arrange.

Tks

Tom Nastos

-----Original Message-----

**From:** paul [mailto:paul@shyangho.com.tw]

1/22/2008

**Sent:** Wednesday, May 09, 2007 4:08 AM

**To:** Tom Nastos

**Subject:** RE: Pro-Keds Outstanding Statement

Tom

How is going?

Do you have any ideas on the July production orders?

Looking forward to receive it soon.

.Paul

---

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]

**Sent:** Wednesday, May 09, 2007 9:01 AM

**To:** (SH-H10) Paul Tseng

**Subject:** FW: Pro-Keds Outstanding Statement

---

**From:** Tom Nastos [mailto:tom.nastos@endurance1914.com]

**Sent:** Tuesday, May 08, 2007 9:07 PM

**To:** (SH-H40) Kimmy Liu

**Cc:** Jennifer Shen

**Subject:** RE: Pro-Keds Outstanding Statement

Kimmy ,

We are making arrangements with our bank. Jennifer or I will advise shortly. Robert Luo had to leave the office for Wuxi on a family issue. He will be back in the office in 10 days.

Tom nastos

-----Original Message-----

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]

**Sent:** Tuesday, May 08, 2007 5:14 AM

**To:** Tom Nastos

**Subject:** RE: Pro-Keds Outstanding Statement

Dear Tom,

Should you have any information, please kindly let us know.

Thanks & regards,  
Kimmy

---

**From:** Tom Nastos [mailto:tom.nastos@endurance1914.com]

**Sent:** Thursday, May 03, 2007 8:43 PM

**To:** (SH-H40) Kimmy Liu

**Subject:** RE: Pro-Kids Outstanding Statement

Kimmy ,

1/22/2008

I will check with Finance and advise on Monday.

Tom

-----Original Message-----

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]  
**Sent:** Thursday, May 03, 2007 5:08 AM  
**To:** Tom Nastos  
**Cc:** (SH-H10) Paul Tseng  
**Subject:** RE: Pro-Kids Outstanding Statement

Dear Tom,

Based on our understanding, the outstanding invoices should be paid last week, but so far we still haven't received any feedback from your side. Please kindly help to check.

Thanks & regards,  
Kimmy

---

**From:** (SH-H10) Paul Tseng  
**Sent:** Thursday, May 03, 2007 3:57 PM  
**To:** (SH-H40) Kimmy Liu  
**Subject:** FW: Pro-Kids Outstanding Statement

---

**From:** Tom Nastos [mailto:tom.nastos@endurance1914.com]  
**Sent:** Monday, April 23, 2007 8:42 PM  
**To:** (SH-H10) Paul Tseng  
**Cc:** Robert Luo; Jennifer Shen  
**Subject:** RE: Pro-Kids Outstanding Statement

Robert/Jennifer

Let's arrange wire transfer this week. Advise Paul when completed.

Tom

-----Original Message-----

**From:** paul [mailto:paul@shyangho.com.tw]  
**Sent:** Friday, April 20, 2007 8:55 PM  
**To:** Tom Nastos  
**Subject:** RE: Pro-Kids Outstanding Statement

Hello Tom

Thanks

Paul

---

**From:** Tom Nastos [mailto:tom.nastos@endurance1914.com]  
**Sent:** Friday, April 20, 2007 9:27 PM  
**To:** Paul@shyangho.com.tw  
**Cc:** (SH-H40) Kimmy Liu

1/22/2008

Paul ,

Re : Payment

Forwarded to our Financial Staff and will advise on Monday they Wire Transfer date.

Re : Production

Sending additional orders today for June production. Approx 12 ,000 units.

Have a good week-end.

Tom

-----Original Message-----

**From:** paul [mailto:paul@shyangho.com.tw]

**Sent:** Friday, April 20, 2007 8:28 AM

**To:** Tom Nastos

**Cc:** (SH-H40) Kimmy Liu

**Subject:** FW: Pro-Kids Outstanding Statement

Tom

Please see the attach Pro-Keds outstanding list. Also please check with your financial division, Give us the update on the payment.

Thanks

Paul

---

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]

**Sent:** Friday, April 20, 2007 10:20 AM

**To:** (SH-H10) Paul Tseng

**Subject:** FW: Pro-Kids Outstanding Statement

總經理,

Pro-Keds 4/13應付款項到目前為止都還沒有入帳, 連續2天跟催客人也都沒有回應, 接下來4/20應付款亦到期, 是否該請Merrick幫忙了解一下狀況?

Rgds,

Kimmy

---

**From:** (SH-H40) Kimmy Liu

**Sent:** Thursday, April 19, 2007 5:06 PM

**To:** Endurance / Connie Kong

**Cc:** 'Jennifer Shen'; 'Robert Luo'; (SH-H10) Paul Tseng

**Subject:** RE: Pro-Kids Outstanding Statement

Dear Connie,

Please confirm.

Rgds,

1/22/2008

Kimmy

---

**From:** (SH-H40) Kimmy Liu  
**Sent:** Wednesday, April 18, 2007 4:31 PM  
**To:** 'Connie Kong'  
**Cc:** Jennifer Shen; Robert Luo; (SH-H10) Paul Tseng  
**Subject:** RE: Pro-Kids Outstanding Statement

Dear Connie,

Please confirm if you have made remittance on Apr/13 as per schedule.

Rgds,  
Kimmy

---

**From:** Connie Kong [mailto:connie@endurance1914.com]  
**Sent:** Saturday, March 31, 2007 3:02 AM  
**To:** (SH-H40) Kimmy Liu  
**Cc:** Jennifer Shen; Robert Luo; (SH-H10) Paul Tseng  
**Subject:** RE: Pro-Kids Outstanding Statement

Hi Kimmy:

Please find the payment schedule as attached.

Thanks,  
Connie

---

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]  
**Sent:** Wednesday, March 28, 2007 11:40 PM  
**To:** Connie Kong  
**Cc:** Jennifer Shen; Robert Luo; (SH-H10) Paul Tseng  
**Subject:** RE: Pro-Kids Outstanding Statement

Dear Connie,

Well noted your arrangement for the overpaid amount, so the balance would be \$420,359.56 excluding sample charges, the updated outstanding list as attached.

As to the new payment schedule, that would be grateful if you can make payments before/on Apr/27 instead of May/4.

With regards,  
Kimmy

---

**From:** Connie Kong [mailto:connie@endurance1914.com]  
**Sent:** Wednesday, March 28, 2007 11:20 PM  
**To:** (SH-H40) Kimmy Liu  
**Cc:** Jennifer Shen; Robert Luo; (SH-H10) Paul Tseng  
**Subject:** RE: Pro-Kids Outstanding Statement

1/22/2008

Hi Kimmy.  
Noted with thanks letting me know \$80,472.24 overpaid but I use Green highlighted to release those 70% invoices from the overpaid amount. Please see updated outstanding and the new payment schedule as attached so the total balance would be \$420,359.56 now not including sample charges. Please confirm the way of changing payment schedule.

Thanks a lot,  
Connie

---

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]  
**Sent:** Wednesday, March 28, 2007 5:18 AM  
**To:** Connie Kong  
**Cc:** Jennifer Shen; Robert Luo; (SH-H10) Paul Tseng  
**Subject:** RE: Pro-Kids Outstanding Statement

Dear Connie,

Confirmed our receipt of remittance \$199,777.89 today with thanks. However, there're two issues as follows:

1. It took some days for receiving the remittance due to the errors made at your end. Please correct your record in order to avoid such kind of mistakes happen again in the future.  
Beneficiary's name: APODIC LTD. (wrong) → APODIS LTD. (correct)  
Account#: 961511002002 (wrong) → 96511002002 (correct)
2. As to 30% portion, some invoices have been paid for twice (attached e-mail for reference), please see the details highlighted in pink, which means 60% of the mentioned invoice was paid. So the total balance would be \$420,359.56, please check the updated outstanding list as attached.

Please let us know if any questions or changes on payment schedule.

With regards,  
Kimmy

---

**From:** Connie Kong [mailto:connie@endurance1914.com]  
**Sent:** Saturday, March 24, 2007 12:33 AM  
**To:** (SH-H40) Kimmy Liu  
**Cc:** Jennifer Shen; Robert Luo; (SH-H10) Paul Tseng  
**Subject:** RE: Pro-Kids Outstanding Statement

Hi Kimmy:

Wire today \$199,792.89 to cover 30%SH-060827, SH-060825, SH-060826, SH-070003, and 70%SH-060813, SH-060823. Also, cover \$28,553.33 for samples charges as attached spreadsheet. Please confirm when you receive wire transfer.

Thanks,  
Connie

---

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]  
**Sent:** Wednesday, March 21, 2007 2:49 AM  
**To:** Connie Kong

1/22/2008



**Cc:** Jennifer Shen; (SH-H10) Paul Tseng

**Subject:** RE: Pro-Kids Outstanding Statement

Dear Connie,

Thanks for the payment information; but your payment schedule and our expectation have a great distance. Anyway please improve the payment schedule as far as possible.

Rgds,  
Kimmy

---

**From:** Connie Kong [mailto:connie@endurance1914.com]

**Sent:** Friday, March 16, 2007 5:50 AM

**To:** (SH-H40) Kimmy Liu

**Cc:** Jennifer Shen

**Subject:** RE: Pro-Kids Outstanding Statement

Hi Kimmy:

Please find the payment scheduled as attached but they will change anytime.

We try to pay the balance sooner.

Thanks,  
Connie

---

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]

**Sent:** Thursday, March 15, 2007 5:26 AM

**To:** Connie Kong

**Cc:** Jennifer Shen; (SH-H10) Paul Tseng; Melissa Chorzepa

**Subject:** RE: Pro-Kids Outstanding Statement

Dear Connie,

Should you have any payment information, please let us know.

With regards,  
Kimmy

---

**From:** (SH-H40) Kimmy Liu

**Sent:** Tuesday, March 13, 2007 4:24 PM

**To:** 'Connie Kong'

**Cc:** Jennifer Shen

**Subject:** RE: Pro-Kids Outstanding Statement

Hello Connie,

Confirmed our receipt of the remittance \$89,432.28, thanks a lot. We look forward to receiving the balance (70%) within this week.

With regards,

1/22/2008

Kimmy

---

**From:** Connie Kong [mailto:connie@endurance1914.com]  
**Sent:** Saturday, March 10, 2007 3:49 AM  
**To:** (SH-H40) Kimmy Liu  
**Cc:** Jennifer Shen  
**Subject:** RE: Pro-Kids Outstanding Statement

Hi Kimmy:

Wire \$89,432.28 to cover 30% SH-060824, SH-060823 and SH-070006 today. We will try to wire more or 70% next week.

Thanks,  
Connie

---

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]  
**Sent:** Tuesday, March 06, 2007 8:41 PM  
**To:** Connie Kong  
**Cc:** Robert Luo; Jennifer Shen; (SH-H10) Paul Tseng  
**Subject:** RE: Pro-Kids Outstanding Statement

Dear Connie,

Thanks for your prompt reply. We're expecting to receive the payment within this week.

How about the balance (70%) amount \$591,599.12? Those shipments were all made before/on Jan/20, and the invoices should be paid as well. Please confirm your payment schedule.

Besides, I don't understand what kind of outstanding invoices you need? I believe that you've already received all of full set of shipping documents after each shipment was made. Please kindly make remittances based on the documents received by you.

With regards,  
Kimmy

---

**From:** Connie Kong [mailto:connie@endurance1914.com]  
**Sent:** Tuesday, March 06, 2007 12:27 AM  
**To:** (SH-H40) Kimmy Liu  
**Cc:** Robert Luo; Jennifer Shen  
**Subject:** RE: Pro-Kids Outstanding Statement

Hi Kimmy:

Wire \$89,432.28 this Friday to cover 30% SH-060824, SH-060823, and SH-070006. Please send copies of all outstanding invoices to prepare your payment.

Thanks,  
Connie

---

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]  
**Sent:** Friday, March 02, 2007 10:13 PM

**To:** Connie Kong

**Cc:** Robert Luo; Jennifer Shen; Melissa Chorzepa; (SHC-117) Yayo Ye; (SH-H10) Paul Tseng;  
SHC-117 JennyChang

**Subject:** Pro-Keds Outstanding Statement

Dear Connie,

Enclosed, please check the updated outstanding statement, and we expect you can keep promise and arrange remittance urgently since those payments have been delayed seriously.

T/T outstanding amount -- \$681,031.40

L/C not yet opened -- \$633,797.16

In addition, for shipments made on February, the L/C has not been opened so far. Wuxi-Guangming said that it's impossible to solve the L/C issuing within this week as they are having financial problem. Therefore, we'd like to know your payment schedule for those shipments we'd already made on February, and also payment term for future shipments as well. Please confirm.

With regards,

Kimmy Liu

Shyang Ho Footwear Co., Ltd.

Tel:886-424072538 ext.601

Fax:886-424077656

<<mailto:kimmy@shyangho.com.tw>>

**Exhibit I: Proposed payment schedules**

B3081863.2

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**From:** Connie Kong [connie@endurance1914.com]  
**Sent:** Wednesday, June 20, 2007 4:42 PM  
**To:** (SH-H40) Kimmy Liu  
**Cc:** Robert Luo; Tom Nastos; (SHC-100) Paul Tseng  
**Subject:** RE: Payment Schedule (updated)  
**Follow Up Flag:** «Y³B²z  
**Flag Status:** Red  
**Attachments:** Pro-Keds Outstanding List .xls

Hi Kimmy:

Please see updated payment attached.

Thanks,  
Connie

---

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]  
**Sent:** Wednesday, June 20, 2007 3:49 AM  
**To:** Connie Kong  
**Cc:** Robert Luo; Tom Nastos; (SHC-100) Paul Tseng  
**Subject:** RE: Payment Schedule (updated)

Dear Connie,

Sorry for my late reply. Please check the invoice copy of SH-070046A as attached. Awaiting your payment schedule.

With regards,  
Kimmy

---

**From:** Connie Kong [mailto:connie@endurance1914.com]  
**Sent:** Friday, June 15, 2007 10:49 PM  
**To:** (SH-H40) Kimmy Liu  
**Cc:** Robert Luo; Tom Nastos; (SHC-100) Paul Tseng  
**Subject:** RE: Payment Schedule (updated)

Hi Kimmy:

1/22/2008

Please send me a copy of SH-070046 invoice. The payment schedule will advise next week.

Thanks,  
Connie

---

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]  
**Sent:** Friday, June 15, 2007 2:55 AM  
**To:** Connie Kong  
**Cc:** Robert Luo; Tom Nastos; (SHC-100) Paul Tseng; Melissa Chorzepa  
**Subject:** RE: Payment Schedule (updated)

Dear Connie,

The outstanding list has just been updated for a new invoice (highlighted in pink), please check and confirm the payment schedule.

Thanks & Regards,  
Kimmy

---

**From:** (SH-H40) Kimmy Liu  
**Sent:** Friday, June 15, 2007 2:02 PM  
**To:** Endurance / Connie Kong  
**Cc:** Endurance / Samantha Huang; Endurance / Robert Luo; Endurance / Tom Nastos; '(SHC-100) Paul Tseng'  
**Subject:** Payment Schedule

Dear Connie,

Regarding the 70% balance, please confirm if the payment has been made on time as scheduled.

With regards,

Kimmy Liu  
Shyang Ho Footwear Co., Ltd.  
Tel:886-424072538 ext.601  
Fax:886-424077656  
<mailto:kimmy@shyangho.com.tw>

1/22/2008

## OUTSTANDING STATEMENT - PRO-KEDS AS OF JUN 15, 2007

FACTORY	PAYMENT	INVOICE	PO#	AMOUNT	ETD	30%	30% PAYMENT EXPECTED	30% PAYMENT SCH.	70%	70% PAYMENT EXPECTED	70% PAYMENT SCH.
SH	OPEN A/C	SH-060824	715,716, 717, 718, 719, 720, 721, 723	216,363.48	12/24/2006	64,909.04	PAID	3/13	151,454.44		6/25-6/29
SH	OPEN A/C	SH-060825	751	28,767.60	1/3/2007	8,630.28	PAID	1/2	20,137.32		7/9-7/13
SH	OPEN A/C	SH-060826	742, 744, 746, 747	137,895.60	1/7/2007	41,368.68	PAID	1/2	96,526.92		7/2-7/6
SH	OPEN A/C	SH-070006	714, 715, 716, 717, 718, 719, 720, 721, 805, 806, 807	2,876.52	1/20/2007	2,474.88	PAID	3/13	401.64		7/9-7/13
SH	OPEN A/C	SH-070046A	1127	94.26	5/30/2007						7/9-7/13
				385,997.46		117,382.88	PAID		268,614.58	(included 6prs/\$94.26)	

SH-070006 partial payment \$1,611.92 on 3/28





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**From:** Robert Luo [robert.luo@endurance1914.com]  
**Sent:** Wednesday, August 01, 2007 8:46 AM  
**To:** (SH-H40) Kimmy Liu; Tom Nastos; Connie Kong  
**Cc:** (SHC-100) Paul Tseng  
**Subject:** RE: Payment Schedule (updated)  
**Follow Up Flag:** «Y³B²z  
**Flag Status:** Red

Kimmy,

I try my best to arrange some.

Thanks.

Robert

---

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]  
**Sent:** Wednesday, August 01, 2007 3:28 AM  
**To:** Tom Nastos; Connie Kong  
**Cc:** Robert Luo; (SHC-100) Paul Tseng  
**Subject:** RE: Payment Schedule (updated)

Dear Tom,

Can we expect to receive all of the balances (\$268,614.58) within this week? We look forward to hearing the positive answer from you.

Tks & rgds,  
Kimmy

---

**From:** Tom Nastos [mailto:tom.nastos@endurance1914.com]  
**Sent:** Monday, July 16, 2007 10:36 PM  
**To:** (SH-H40) Kimmy Liu; Connie Kong  
**Cc:** Robert Luo; (SHC-100) Paul Tseng  
**Subject:** RE: Payment Schedule (updated)

1/22/2008

Kimmy ,

back in NYC this week. Will review balance and will advise towards the end of the week.

Send my best to Paul.

Tom Nastos

-----Original Message-----

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]

**Sent:** Monday, July 16, 2007 3:09 AM

**To:** Connie Kong

**Cc:** Robert Luo; Tom Nastos; (SHC-100) Paul Tseng

**Subject:** RE: Payment Schedule (updated)

Dear Connie,

Please advise the payment status.

Rgds,  
Kimmy

---

**From:** (SH-H40) Kimmy Liu

**Sent:** Tuesday, July 03, 2007 3:06 PM

**To:** 'Connie Kong'

**Cc:** Robert Luo; Tom Nastos; (SHC-100) Paul Tseng

**Subject:** RE: Payment Schedule (updated)

Hi Connie,

Please confirm if you have made remittance on Jun/29 as scheduled?

Rgds,  
Kimmy

---

**From:** Connie Kong [mailto:connie@endurance1914.com]

**Sent:** Thursday, June 21, 2007 4:42 AM

**To:** (SH-H40) Kimmy Liu

**Cc:** Robert Luo; Tom Nastos; (SHC-100) Paul Tseng

**Subject:** RE: Payment Schedule (updated)

Hi Kimmy:

Please see updated payment attached.

Thanks,  
Connie

---

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]

1/22/2008

**Sent:** Wednesday, June 20, 2007 3:49 AM  
**To:** Connie Kong  
**Cc:** Robert Luo; Tom Nastos; (SHC-100) Paul Tseng  
**Subject:** RE: Payment Schedule (updated)

Dear Connie,

Sorry for my late reply. Please check the invoice copy of SH-070046A as attached. Awaiting your payment schedule.

With regards,  
Kimmy

---

**From:** Connie Kong [mailto:connie@endurance1914.com]  
**Sent:** Friday, June 15, 2007 10:49 PM  
**To:** (SH-H40) Kimmy Liu  
**Cc:** Robert Luo; Tom Nastos; (SHC-100) Paul Tseng  
**Subject:** RE: Payment Schedule (updated)

Hi Kimmy:

Please send me a copy of SH-070046 invoice. The payment schedule will advise next week.

Thanks,  
Connie

---

**From:** (SH-H40) Kimmy Liu [mailto:kimmy@shyangho.com.tw]  
**Sent:** Friday, June 15, 2007 2:55 AM  
**To:** Connie Kong  
**Cc:** Robert Luo; Tom Nastos; (SHC-100) Paul Tseng; Melissa Chorzepa  
**Subject:** RE: Payment Schedule (updated)

Dear Connie,

The outstanding list has just been updated for a new invoice (highlighted in pink), please check and confirm the payment schedule.

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Tel:886-424072538 ext.601  
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<mailto:kimmy@shyangho.com.tw>

**Cunningham, Ryan**

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**From:** Tom Nastos [tom.nastos@endurance1914.com]  
**Sent:** Wednesday, August 01, 2007 1:45 PM  
**To:** (SH-H40) Kimmy Liu; Connie Kong  
**Cc:** Robert Luo; (SHC-100) Paul Tseng  
**Subject:** RE: Payment Schedule (updated)  
**Follow Up Flag:** «Y³B²z  
**Flag Status:** Red

Kimmy ,

Hi ,

I am currently at the WSA in L.Vegas. I will discuss with Robert/Jennifer to clean-up these balances.

Right now focused on getting future orderers for all of us. Will advise end of week.

all the Best ,

Tom Nastos

-----Original Message-----

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